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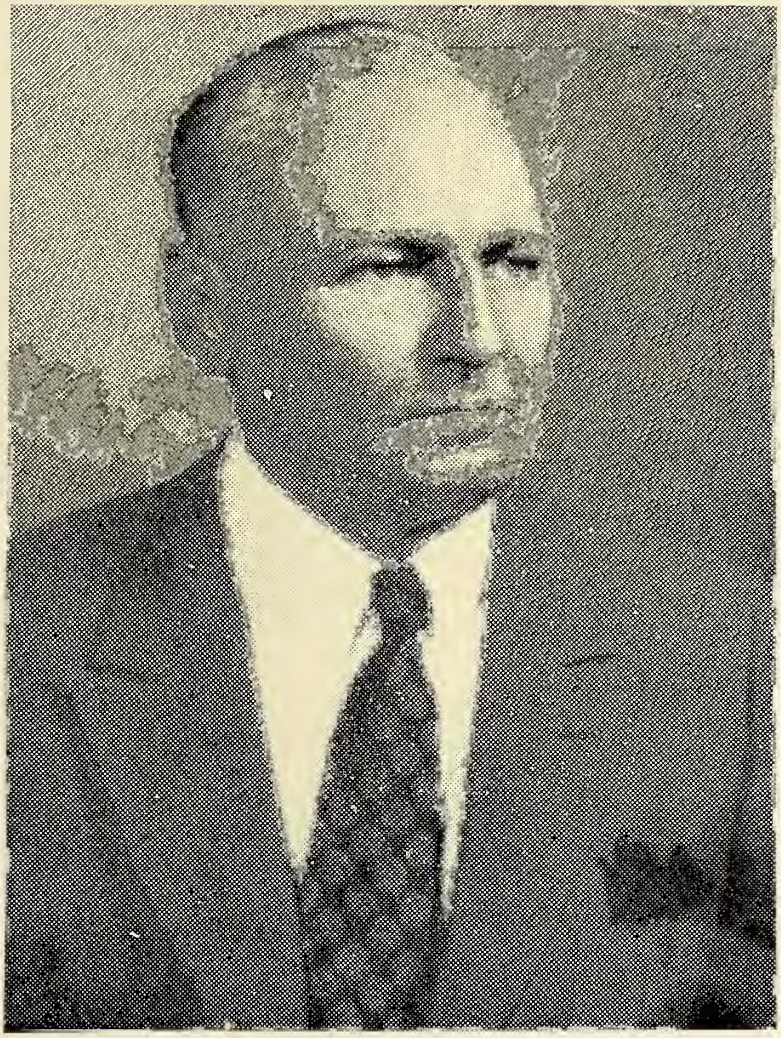

MARION REILY

Retiring President State Bar Association

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Mississippi Law Journal

JOURNAL of the MISSISSIPPI STATE BAR

VOL. X AUGUST, 1938 No. 4

STATEMENT OF THE NEW PRESIDENT OF THE STATE BAR

To the Members of the Mississippi State Bar:

No higher or greater honor could come to anyone than the honor of serving as President of the Mississippi State Bar. For such honor and your expression of confidence I fail to find words adequate to express my gratitude.

I am proud of the Bar of Mississippi. I am proud of the heritage bequeathed to our Bar by the illustrious members who have gone before—proud of the work they wrought for the betterment of the bar; the betterment of the State and the nation.

And what of the Bench? Be it said, to the credit of the bar, no word I have ever heard spoken, even in jest, reflected upon the good name or fame of a member of our Bench—like Caesar's wife, "Above suspicion."

The Bar has ever been the champion of human rights and human liberty, always and everywhere. Every great reform initiated in America has been led by lawyers. Examine history as you may and of everything that has been done to make America great, you will find as leaders members of the bar. The legal profession largely shapes and controls the legislation of the country, and well it were so.

While the processes of the law are tempered, sweetened and humanized by the presence of juries, taken from the body of all the county, it remains at last for the lawyer, first in his office and lastly in the courts, to do real justice and make this country something of which not to be afraid instead of the caricatures on government which exist in so many other countries. If forced to rely solely on departments or officials vested with special authority in any branch of government, whatever that branch might be, we would in time degenerate into Czarism.

Of paramount importance is high moral character and unfailing courage to lift up to its highest ethical standards the practice

of the law and at all times to consider and treat it as the most essential instrumentality for assuring the security of property and the continuance of protected liberty.

Hon. Gurney E. Newlin, Past President of the American Bar Association, in addressing an annual meeting of the American Bar Association said:

"The profession of the law is the recognized conservator of the rights and liberty of the people. The specific responsibility rests upon the profession to make sure that the law is enforced by lawful methods and that there is not lawless enforcement of the law. The Bar is the guardian of our traditions of justice and the protector of the fair name of our legal processes. It is a tradition of justice that the use of torture in obtaining confessions is contrary to law and cannot be tolerated in a free country. Such practices have become a serious blot upon the administration of Justice."

It shall be my earnest endeavor to promote in every way possible the interests of the Bar of Mississippi; to advocate the things and to do the things which I believe will tend to maintain in its present high standard the dignity of the Bar; and to defend its good name and the good name of its members against unwarranted attacks made by unscrupulous, envious or designing men within or without our ranks. For this work I bespeak the help and support of every officer and member of the Bar; of every just and conscientious citizen, interested in the physical and moral development of Mississippi, and of the Mississippi Law Journal, the medium through which, I hope, the members of the bar will in the future more generously speak of and for the things of interest to our profession and to our state.

Sincerely,

R. M. KELLY, President,

Mississippi State Bar.

Proceedings

of

Mississippi State Bar

Held At

Vicksburg, Mississippi

June 8th, 9th and 10th

1938

PROCEEDINGS OF THE THIRTY-THIRD ANNUAL MEETING OF THE

Mississippi State Bar

Held in the City of Vicksburg, Mississippi, on the 8th, 9th, and 10th of June, 1938

HON. MARION W. REILY (in the chair): Gentlemen, the Convention will please come to order.

We will ask Rev. T. J. O'Neill, who is present, to invoke the Divine blessing at this time.

REV. O'NEILL: Almighty God, Our Heavenly Father, Thou who are the author of all life, creator of the universe, Thou who holdest the destiny of every one in Thy hand, we would not undertake any laudable project without first invoking Thy divine blessing upon it. We are here this morning to begin the deliberations of this Bar Association; we pray Thy blessings upon them, upon every member of the Association, and upon all present in this meeting this morning. We thank Thee, Our Heavenly Father, for this beautiful world, which is Thine, and over which Thou hast made us trustees, which Thou hast given us that we might enjoy this great democracy—it is ours to enjoy, to sponsor, to develop, to maintain. And we pray Thee, Lord, that thou would'st help us, that we may meet these obligations upon us as the trustees of this great country and as citizens of this great country.

We thank Thee for the noble men and women who laid the foundations of this country that has spread its boundaries from the Atlantic to the shores of the great Pacific, and from the Gulf of Mexico to the Great Lakes, that has branched out into the Artic and claimed islands, so that today the sun never sets on America. We pray Thee for that wise, good, true wisdom that will be so far-reaching that the influence, the moral influence of our lives and spiritual effect of our living shall be farther reaching than our geographical limitations.

We pray Thee that Thou would'st bless these men to whom we look to enact laws, to interpret laws and to execute laws; these men who are trained in the legal profession, that they may enact laws that shall be best for this great land of ours and interpret those

laws and apply them. And we beseech Thee, Heavenly Father, as they come here to deliberate, that it shall be as steel against steel, that sharpens mind rubbing against mind, elbow touching elbow; and in this fellowship and in this study and in all of these deliberations, may Thy good name be honored, and the noble profession to which they belong receive great credit. Bless those who shall preside over this meeting; and all who take part on the program.

We pray Thy special blessing upon the mayor of our city, he who sits at the helm of the great ship of this municipality, guiding the affairs of this municipality all of these years, proving his great value as a leader.

We pray Thy blessings upon the homes represented, upon our great land in general; we pray Thy blessing each day upon this assembly, to whatever profession they belong, whatever function they perform, may our living be such that it shall help the world to be a better place in which to live, when nation seems to be arrayed against nation, and we are all on the quivive and wondering what the day will bring forth. Calm the disturbances, quiet the people, banish the war clouds with the dove of peace; hasten the time when they shall beat their swords into plowshares and war shall cease and when we shall have peace on earth, good will to men, not only in this great land of ours but throughout the world.

We ask it in the Master's Name, Amen.

THE CHAIR: We will now have the welcome address on behalf of the City of Vicksburg by Hon. J. C. Hamilton, Mayor.

MAYOR HAMILTON: Mr. Chairman, distinguished guests, ladies and members of the Mississippi State Bar; for the second time within a few years I am given the opportunity of extending the official welcome upon behalf of the city of Vicksburg to members of this distinguished organization with its long record of patriotic and unselfish labors for the state, our nation, and our people. I include in that welcome the ladies to whom you owe so much of your success.

Speaking to an organization from whose ranks have come the great orators of today and of yesterday, I naturally feel my utter inability to impress you with the depth of the sincerity of the people's welcome and our joy that you are again to be with us for a few short days. Your annual convention which brings to us, as it does, such a galaxy of able men and beautiful women, is one which we of Vicksburg highly prize, and we always look forward with both pride and pleasure to your coming.

Here a great battle was fought; here is a fort over which the flags of four nations have waived; here is the most beautiful national cemetery in America, in which sleep the heroes of American conflicts. Here is the greatest laboratory in the entire world. Here are sunsets which surpass those of Venice. Here is the mighty Mississippi, the Yazoo and beautiful lakes and all their ramifications. Here are historic homes, beautiful gardens, and we of Vicksburg bid you a cordial and sincere welcome, and urge you to enjoy them to the fullest extent. The portals of Vicksburg are open and this city is hereby surrendered to you to do with as you please, for your pleasure during this convention, and to the end that you may have the most successful convention in your history, we pledge you our untiring efforts. And we urge you, when you take advantage of this "satisfactorium" that the local bar has provided, that you "Lay on McDuff, damned be he who says 'That is enough'." Applause.

THE CHAIR: Thank you, Mayor Hamilton.

Hon. R. M. Kelly will respond to the address of welcome, on behalf of the Vicksburg Bar.

MR. KELLY: Mr. Chairman, Ladies and Gentlemen; no empty idle sermon prompts me to say this morning to the members of the Mississippi Bar and her distinguished guests that you are welcome. Vicksburg's arms are open wide this morning to receive her honor guests, especially the ladies, creatures of sweet impulse and invitation who in her own sweet loving way treads the path of beauty to her own fair ends.

Every foot of Vicksburg soil, as stated by Mayor Hamilton, is under your dominion, and all that thought and work could do to make this convention most pleasant for you has been done. Mayor Hamilton has told you of the beauties of Vicksburg. You know yourself volumes have been written of the chivalry of Vicksburg. Every foot of Vicksburg soil has been drenched with the blood of heroes who fought and bled and died for a cause they believed was right.

Mayor Hamilton having so thoroughly exploited the virtues of the city of Vicksburg, I am going to tell you something of the virtues of the guests whom the city of Vicksburg is so proud to welcome here this morning.

I am proud of the Mississippi Bar. I am proud of the record it has made, and regardless of what has been said and what has been published of lawyers, I will this morning, with more faith and

more confidence, take the pledged word of a member of the bar than the word of him of any other cause. In a long and somewhat active experience, I have yet to meet the broken pledge of a member of the Mississippi Bar. The things that have been said and things that have been published of the conduct of some members of the bar, might almost lead a lawyer to believe that perhaps the mere name of lawyer deprives him of the confidence of the public. So many men remember the Judas among the twelve apostles, but they forget that there were also Peter and Paul.

Let's see what is the character and the standing of the members of the bar. Seventy-one out of 96 members of the United States Senate are members of the bar; 255 of 430 members of Congress are members of the bar. The president of the United States and 6 members of his Cabinet are members of the bar. Sixty-one per cent of the Senate and the House are members of the bar. What a responsibility must the bar assume and what place does the bar occupy in the history, in the doings and in the administration of the laws of the nation. No other calling, no other vocation on earth has been so honored. Twenty-four of 30 presidents of the United States were members of the bar. Since General Grant stepped from the White House, 13 of the 15 presidents of the United States have been members of the bar.

It is true that at times unworthy members have made the bar the stepping stone to places of power, but when real history is written by the truthful and the wise, these men, these seekers after credit will become the very foot of scorn, and the men who earn and deserve the meat of praise, the men who sacrifice themselves so often in worthy causes, upon their brows will rest the laurel mingled with the other.

In all that makes much for the nation's glory the Bar of Mississippi need not be ashamed. The Bar of Mississippi has sent to cabinets of presidents, to the house of Congress and to the Senate men who left their impress upon the laws of this country and who share in making the history of the world. The Mississippi Bar has today in the Senate of the United States the undoubted leader of national thought in the person of our own Pat Harrison, a worthy successor to the Honorable Franklin D. Roosevelt. (Applause).

The subject much discussed of late by the bar and by the bench is criminal procedure and the treatment of criminals; first, the device or way to bring the criminal more speedily to trial, and next the device of more certain if not more speedy punishment. If there ever was a time in the history of this country when the gov-

ernment needed the support and help and the assistance of every human being, that time is now. It should be our earnest desire—I think it is—the most fertile subject for the consideration and the action of members of the bar, and especially members of the Junior Bar. From the time the offense is charged, till the time the convict is sent back to society, and every day thousands of men and women from our jails, our penitentiaries and our reformatories are being dumped back on society, it should be our greatest aim and our greatest care to provide, if we can, a means to make of the convict a better man instead of dumping him back with a spirit of hate and revenge by reason of the treatment received from the time he was charged with an offense until the time he is turned back on society. We know that jails and penitentiaries are not reformatories. We know every jail, penitentiary and reformatory are instruments of torture. Especially should this procedure, which has become somewhat general with so-called peace officers of inflicting the third degree on men who are simply charged with crime, be curbed.

I am glad to see that our Supreme Court has in no uncertain terms condemned this procedure, and I want to take this opportunity to commend the course of our own humane, far-seeing District judge, Sidney Mize. His efforts have been to help and not to harm, to encourage and not to discourage, to offer counsel, to offer advice and to offer all of the help he can to citizens of the United States; large enough to press upon the brow of the criminal the kiss of human sympathy.

I think that the bar, the leaders in every great movement over state and nation—I think if they could devise a way to bring back to society the thousands—might I say the millions—who, through the process of criminal procedure are forced to serve time, to do duty, to pay fines, if the bar could instil into every man charged with a crime, if they could instil into their souls a spirit of patriotism, a spirit of love and respect for the movement in which they live, a spirit of love and a spirit of respect for the Stars and Stripes —if the Bar could do that, I believe it would be rendering to this nation the greatest service the Bar could render.

Take these men, as I say, dumped back on society, and take the millions who are homeless this morning. Should an unscrupulous, determined leader arise at such a crisis—I don't want to suggest a pessimistic position—if those two armies united, officered by an unscrupulous and determined leader, I don't know what effect that would have on the government of the United States.

We boast of our great civilization, of our great country; and yet the ingenuity of our men is taxed to provide a means whereby we can destroy our fellow-man.

I hope that the Bar will give such consideration and suggestions as may be worthy, and I should like to see the Mississippi Bar lead in some proposal to remedy the conditions that exist.

I hope that you will enjoy your stay in Vicksburg, that Vicksburg will enjoy you. I hope that you will come often. I know that you will meet and mingle here with men whom you and I mingled with when life was closer to its morning. As we grow older, as the shadows lengthen, we realize that more than any consideration in this world is the respect, the admiration and the confidence of friends. There is nothing on earth as valuable as friendship. We hope that your friendship for the city of Vicksburg and the people of Vicksburg will be enlarged. We hope it will so impress you that you will come to see us often. Come in the evening, come in the morning, whenever you come you will be welcome, and the oftener you come, the more we will adore you. I thank you. (Applause).

THE CHAIR: Is Mr. R. R. Norquist in the audience? Will he please come forward.

Mr. Norquist will respond to the addresses of welcome.

MR. NORQUIST: Never have I felt more keenly my limitations; and never have I wished more fervently that I were a gifted speaker than now, in order that something at least resembling a proper response might be made to the eloquent and cordial words of greeting to which we have just listened. Of course it is just as well that I do realize those limitations. Were it otherwise, I might smother with mere words our sincere and heartfelt thanks for your gracious hospitality.

So often words, and especially words of many syllables, are employed to the destruction of simple beauty—and we are told that the intelligentia of Boston are notable in this respect. For instance, all of you know that little folk song of the South which we know as "Uncle Ned", and goes like this:

> "There was an old darkey and his name was Uncle Ned
> And he died long ago, long ago.
> He had no wool on the top of his head,
> The place where the wool ought to grow.
> So, hang up the shovel and the hoe;

Take down the fiddle and the bow;
For there's no more work for poor old Uncle Ned,
'Cause he's gone where the good darkies go."

Now this the way they sing it in Boston:

"There was an ancient African whose congomen was Uncle Edward,
And he lived long since, long since.
He had no capillary effusion on the apex of his cranium,
Where the capillary effusion usually vegetates.
So hang up the agricultural implements;
Take down the violin and its agitator;
For there's no more violent exertion for poor Uncle Edward
For he's gone where all good colored individuals eventually migrate."

All of us are glad to come to Vicksburg—some for one reason, and some for another. Some, I understand, are happy at its proximity to "Liberal Louisiana" with its steady, or I might say "staggering" flow of traffic across the river. However, I am advised that, for this occasion, the local bar, as a WPA project, has transplanted this part of Louisiana to Vicksburg. As to this proposition though, I personally demand strict proof from the Committee on Entertainment.

Seriously, the selection of Vicksburg as the site for this meeting was indeed most happy. A city of glorious history, culture and charm with an atmosphere redolent of the Old South, than which no higher compliment can be paid. Charming characteristics still prevalent and only emphasized by the evolution that now sees Vicksburg, in every respect, a modern and progressive city—a city which has so exceeded its quota in its contribution to this nation of men and women eminent in the fields of literature and the arts, in statecraft, and, in our own profession, lawyers and judges of outstanding ability.

So, Mayor Hamilton, Judge Kelly, and Ladies and Gentlemen of Vicksburg, we deem it an honor and a privilege to be your guests on this occasion, and assure you that we confidently expect to enjoy every moment of our visit among you, (Applause).

THE CHAIR: Ladies and gentlemen, we are now to be favored with music.

To me it seems that every meeting of this kind should have some music in connection with the program.

I read in the paper recently where a great opera singer returned to his native Venice, and that all night long, shop girls and men who worked in the streets in the dust and grime, stood in line before the theatre that they might have a chance to purchase tickets when the door of the theatre opened the next morning.

No meeting is complete without music. Music has power to awaken a thousand memories that bless man in his saddest hours, and I am delighted to find that we have with us this morning two very distinguished artists, Mrs. Mae Moe Minter, and Mrs. Sam Guest, whom we will now hear, if they will be so kind. (Applause).

(The selections rendered were "Trees" and "My Hero" from Chocolate Soldier). (Applause).

THE CHAIR: Gentlemen, we have reached that point in the program where it becomes necessary, as I understand it, for you to listen to the president's address.

I have never written an address and I have never attempted to made a talk, when that talk appeared in print afterward, that I did not discover that I either said something I did not intend to say, or I did not say what I intended to say, or those who recorded what I said had erred. Day before yesterday it occured to me that every president in the past had read his remarks to the bar, so at that time I attempted to reduce my thoughts to writing.

I want to say before I read this address, that I saw a picture the other day that has continuously recurred to me. It was a picture of a very thin hog that was looking at a fat and favored hog getting food through a spout or hole, and as the thin hog looked at the fat hog, he said, "That's all right, you are having a good time now, but I know what you will get hereafter". He knew they would kill that hog.

I approach this address in the same frame of mind.

In my last hour, if I were asked if there was anything in my entire life that I was proud of, that I would like to have recorded; there is but one thing in my life that I would want recorded, and that is that I was a practitioner in the courts of Mississippi; that I had been a Mississippi lawyer.

Feeling that way toward my profession, I would not if I could, and I could not if I would, fail on this occasion to discuss with you

in candor and frankness those things concerning the practice of law in Mississippi which, in my judgment, deserve your thought and your attention.

I am embarrassed by the necessity of apologizing for my inability, because of ill health, to render to this Association the service which I hoped to render.

Since March of 1937 my physical condition has frequently made it impossible for me to attend to business. Recently, my health has forbid that I give thought to business of any nature. However, we are fortunate in having as secretary of this Association one, whose untiring efforts has accomplished much.

Realizing that I could not participate in the arranging of the program for this meeting, I appointed a committee and named our friend, R. M. Kelly, chairman of that committee, to perfect the arrangements for this meeting. The splendid efforts of our secretary, and Mr. Kelly, and the other members of the committee, are entirely responsible for the program which has been arranged. I believe that you will find the program worthy of the occasion.

My remarks shall be brief. For more reasons than one, I shall discuss what I deem to be vital questions touching the lawyer and his problems as a practitioner, as an officer of the Court, and as a citizen. I shall discuss in candor the duties of the lawyer, the temptations which surround him, the dangers which threaten him and the opportunities for service which are open to him.

Just what are the duties of the lawyer?

He is called upon to advise and counsel others with regard to their legal rights and legal duties. He frequently must devote his time, his talent and all of the strength of his being to protect the interests of his clients.

He must know the law, and the man who knows the law, in view of the many decisions handed down by appellate courts of this day, must be a studious man. No lawyer can justify ignorance of the law in his chosen field.

There are those who profess to believe that the standard would be raised by shutting the door of opportunity in the face of the aspiring man who has been denied a college education. The very thought is hostile to everything connected with American life.

Some one said:

"The heights by great men reached and kept,
Were not attained by sudden flight,
But they, while others slept,
Toiled onward through the night."

Experience has taught that the lawyer who overcomes the handicaps of poverty and through his own efforts, though denied a college education, becomes a practitioner at the Bar, in a large majority of the instances eventually becomes learned in the law, being proud of the opportunity to practice his profession.

But let us discuss the duties of the lawyer. If we are to judge by the conduct of some members of our profession, there must be some misunderstanding upon this question.

How far should a lawyer go in the interest of his client? There are those who believe that the lawyer can become a party to any scheme or device that will enable his client to be victorious. This idea is entertained by the public at large. I resent it with every fiber of my being. There is a duty resting upon every attorney to ascertain the truth concerning the issues involved in every law suit in which he participates.

Shall we face this question courageously, seriously; or shall we adopt the easier course and seek refuge in the statement so often heard by those who are indifferent to the manner in which they make their money—that we are sustaining the contentions of our clients.

That there is a certain class of men who are permitted to practice law and who prey upon the business interests and the man of means by filing law suits that are without merit, is an open secret.

This class of men accomplishes but little and soon is incapable of inflicting serious harm, except upon the profession which they pretend to practice.

There is another man who practices law and belongs to this class. He makes vast pretentions as to respectability and standing in the profession. He is the man who will undertake to advance any defense that will increase the fee which he receives.

We frequently note that some small, uninformed man who publishes a newspaper is wailing about the large number of law suits filed. He generally states that business is being kept from the state because of the activity of the lawyers in bringing suits

without merit. We must be charitable with this man because he is generally ignorant.

It is not unusual to note that some man of standing in the business world, while attending a luncheon at a civic club, will deliver an address directed at the lawyer who invokes the aid of the court, to collect by suit, of those who depend upon money, and the things that money can buy, to enable them to escape the payment of an honest debt. He generally refers to the lawyer who files the suit as a detriment to the welfare of the community and shouts aloud that business is being kept from the state because of the number of suits filed. Of course, men who deliver such addresses believe it to be the duty of a government to protect men in every effort that enables them to accumulate money, regardless of the rights of others.

It occurs to me that the time has come in Mississippi that some man tear the mask from the face of those who would have it appear that all of the wrongdoing of the legal profession lies at the door of those who represent the poor. The truth is, and every informed lawyer within the sound of my voice knows that the truth is, that seven law suits out of ten that are filed are filed because defendants rely upon the ability of learned and skillful attorneys and the power of money to enable them to pay less than they actually owe.

The lawyer who builds a case against a defendant ought to be disbarred. The lawyer who builds a defense, whether he resort to intimidating witnesses because they are in the employ of the defendant, or whether he resort to having witnesses placed beyond the reach of the plaintiff and his attorneys, or whether he willingly accepts a file prepared by a claim agent who has adopted the methods frequently adopted by claim agents, without himself investigating to ascertain the truth—I say that such a lawyer is unworthy to practice law and ought to be disbarred.

There is a story told of a lawyer who, whenever he defended a cause in which a master was sought to be held accountable for the negligence of the servant, the defense was always advanced that the servant, at the time of the injury, though guilty of grave negligence was, at that particular time, performing some duty apart from the master's business. If the chauffeur left the defendant's home to fetch the defendant home to dinner in the defendant's car and injured someone before the defendant entered the car, then the chauffeur has departed from his usual route to flirt with the nurse of a neighbor.

If the mechanic started in the master's car to perform a duty for the master and injured someone, at the moment of the injury, he had started to his home to get his coat or his pipe.

We all know the danger of such a plea. We all know how easy it is for truth and right to be defeated by this defense. We all know how difficult it is to disprove the truthfulness of such a plea.

The story that goes that this attorney became involved in a divorce suit and attempted to defend his own case. When his wife offered proof of his indiscretions, he became confused and in a moment of excitement protested that even though he may have been indiscreet, and worse, that even though he may have been careless about it, that at the hour of the indiscretion he had departed from his home and was not engaged in family business.

If this be my last address to this Association, I would that I be remembered as having raised my voice in protest against the sham and hypocracy so often indulged in by the members of our profession under the plea of ignorance as to the truth of the position taken in court.

Let me not be misunderstood. The practices to which I have referred are indulged in by a limited number of the profession only. There are many men in this Association who appear upon both sides of the docket, who would spurn as an unclean thing participation in fraud of any nature.

There is no man who has an opportunity to render the service that the lawyer renders. How sacred is the duty which the lawyer performs when the litigant, because of his faith in the attorney, brings to him the problems which threaten him. When unhappiness, with stealthy tread, creeps into the home and steals the influence of holy love and takes from the pillow the sweet hours of repose, it is the lawyer to whom the husband or the wife goes for advice and counsel. When temptation leads either the husband or the wife astray and the heart of the other is torn and crushed and between the two stand innocent children whose very lives will be influenced by the course selected by the mother or the father, in such an hour the advice and counsel of the lawyer is sought.

When misfortune lays its devastating hand upon the business venture of the man of industry and ambition, the advice of the lawyer is sought.

When death comes and an estate must be administered, many thousands of dollars may be involved. At such an hour, the coun-

sel and advice of a lawyer is sought. The hand of a strong man, the unselfish service of a clean heart, the advice and counsel of a clear head is sorely needed.

Am I correct when I say that it too frequently happens that estates are so manipulated and so managed that fees enumerable through the years are paid, when reason would dicate that much of this could be obviated. Under all of these situations, temptation is at the elbow of the lawyer. Self interest is there to suggest his course.

Just as the lawyer, who insists upon defending a suit when there is no honest defense, profits by his want of integrity, so does the lawyer who fails to hold high the interest of his client in estate matters.

If this Association is to be of service to the profession, let us always remember that *our problem is with the man*; the lawyer himself.

There is another phase of the lawyer's duty which occurs to me. I refer to his attitude towards the court.

No judge can conduct his court with proper dignity and dispatch without the confidence and respect of the members of the Bar.

I have favored the elective judiciary, and I believe that as a whole we have profited by the elective judiciary in Mississippi. But the lawyers have it within their reach to make the elective judiciary more advantageous to the public. We sometimes, though not frequently, find some man occupying the bench who displays that which a judge should never display, and that is, a fear of the consequences of his acts while upon the bench.

Louis XIV said, "Laws are sovereign of sovereigns."

The judge pronounces the law and he is never called upon to explain to any man his motive in so doing. The lawyer must never forget his duty to the court, and the court must never forget its duty to the lawyer, who is an officer of the court. The courts must not escape the watchful eye of the lawyer. If the lawyers of Mississippi will ever hold sacred their duty to the courts, all will be well with the courts.

How often are men found smiling blandly at every action of the judge? Of course, those who do this are of that inferior fiber which makes men unfit for a place in a government such as ours.

Let the lawyer uphold the courts in all matters in which it is assailed, through ignorance or prejudice, and demand of the court that respectful treatment to which a lawyer is entitled, and the courts will be safe.

It is an open secret that some men who have served as federal judges have long since ceased to be worthy of that place. It has been stated by reputable men that in this state in a case in which many thousand dollars were involved, a federal judge limited the argument of the case to three minutes.

It is nothing unusual to see a federal judge, other than a Mississippian, attempt to take charge of one side or another of a law suit, especially in criminal cases, and to force from the jury that verdict which the judge desires to be rendered. There is no man serving upon the federal bench who is a Mississippian who indulges in such practices, but judges who are citizens of other states do come to this state and indulge in such practices. I would be ashamed of myself if I were caught indulging in friendly conversation with such men.

I call upon the members of the Mississippi State Bar today to stand firm in the preservation of that dignity to which you are entitled and in the preservation of the courts of Mississippi.

I have read that in England in olden days when judges abused their power that members of the Bar refused to converse with them, and refused to associate with them and made known to the world their contempt for them. There is power, as well as glory, in self respect and right today as much as it was in the olden days.

I call the attention of the members of the Bar to the disposition displayed by some members of our profession to ignore the rock-bed principles upon which this government was founded.

In recent years, those who seek an advantage under the law have endeavored in every way possible to banish the open court house. The hope of this country lies in keeping the court house open. As long as every man, whether rich or poor, can appeal to the courts of the land to have his contentions fairly passed upon, all will be well with this country. It was an idea of the fathers that courts shoud be established and that questions of fact should be decided by jurors and that questions of law should be ruled upon by learned men called judges.

Since "man's first disobedience brought death into the world and all of our woe", men have violated the law of both God and man. During every age, there have been differences betwen men

that required the services of the court. If anything has been forever settled concerning the affairs of men, it is that the safest and best method by which to settle disputes among men is by trial in an open court house where both sides are represented by competent men learned in the law. Notwithstanding this fact, those who want an advantage under the law and who depend upon vast wealth to enable them to attain that advantage, bend every effort to abolish trials in open court. Such men prefer secret hearings behind closed doors. The impartial eye of the public is excluded.

Efforts have been made to have controversies of every nature settled by councils, committees and boards. Those who compose such councils, committees and boards are not elected by the people, but are appointed by some man who is under political obligations to those whom he appoints. Of course, the men who can make large contributions to political campaigns, and the man who claims to be able to deliver a large number of votes, is always just fitted for a position upon such a board or council.

Let the Mississippi Bar hold sacred the duty of maintaining the open court house where questions of fact will be decided by juries, legally drawn, and where questions of law will be passed upon by the court; where the eye of the public is upon all that is done in the name of the law. The past tells us that the one priest who never despoils the altar is he whom we denominate the opinion of the informed American public.

This Association is concerned not only with the lawyer in the court room, but with the lawyer as a citizen. By virtue of his calling, if he be a man of character and fair ability, his advice and counsel will be sought as a citizen. Especially is this true with regard to laws which are proposed by the legislature, whether enacted or defeated.

A great man, though a victim to chance and fate, has said that, "Law is anything boldly asserted and plausibly maintained." There is much wisdom in this statement.

We must remember that the statement found in the Hebrew Talmed that "the law was given to man, not to angels," is only too true.

At every session of the Mississippi Legislature and, at every meeting of Congress, there appear men who are employed to influence the legislature and the Congress of the nation to the end that laws may be passed or defeated as the interests of such men and those whom they represent may require. The average man

who wants no advantage under the law depends upon the integrity of the legislators and goes the even tenor of his way. The result is that only too frequently unjust laws are enacted because certain interests are benefited by the enactment of those laws.

The press of the nation is not always alert and while it is true that the press has done more to rescue the nation from fatal error than any other one influence, it is also true that many of the editors of the smaller papers frequently advocate the passage of laws because those who advertise with them favor such laws. It is generally another instance in which something has been boldly asserted and plausibly maintained. The lawyer generally appreciates the danger and as a citizen and a leader in the community in which he lives, his opportunity for service is unlimited.

If I mistake not the signs of the times, the hour is near when the services of the lawyer as a citizen is going to be needed as never before.

In every nation, there is an age-old conflict between capital and labor. During the past, capitalists have united their efforts and with the assistance of members of the Bar, by unjust means, have amassed great fortunes, while untold millions have lived in penury and woe.

If we remember that the law was given to men and not to angels, we will not be surprised at this observation.

I rejoice that the day has come when no self-respecting and intelligent man denies that much of the poverty and hunger and suffering which has been so often found in this nation was occasioned by the cruel selfishness of the moneyed interests of this nation.

Thank God, we have at last elected a man president of this nation who recognizes this fact and has had no hesitancy in telling the world about it.

But another situation is gradually developing. Labor has long been organized and has been a weighty influence in national affairs. The hour is fast approaching when in every county in this state and in every state of this union, every laboring man with the possible exception of the farmer—and sooner or later he will have to deal with the same problem—will be embarrassed and humiliated unless he joins a labor union. The laboring man in the past has had the sympathy of the American people because his demands have generally been just; but when his demands cease to be just, the laboring man is going to lose the best influence that ever

blessed his cause, and that is the confidence and sympathy of the American public. Today, labor organizations are holding their meetings and drafting resolutions pledging every member of their organizations to support the candidates for office of their choice. In deciding what candidates they will support, the controlling question is, "who will stand by the contentions of labor?" The integrity of the candidates; the ability of the candidates; the experience of the candidates; the fitness of the candidates to serve in the places to which they aspire, has no place. It is not a question of who is capable of rendering better service to the American people or to the state, but it is a question of who will meet the demands of the labor organizations.

Right here, I would draw a distinction between the laboring man and the labor organization. Union labor has been blessed with the leadership of many great men. They have today many leaders who are wise, sagacious and just, but we should not be surprised in view of the treatment which labor has received at the hands of capital, if we find many labor organizations dominated by men wanting in experience and wanting in breadth of vision. The service of the lawyer as a private citizen will be needed in the future as never before. He ought to be a true friend of labor. He ought to remember that while the interest of capital can not be put first, neither can the contentions of labor be put first, but the welfare of the country, the perpetuity of the government and its institutions, the benefits to be derived by the whole people, must stand first in the heart of every American.

In Mississippi, all informed men know that those who pretend to be the leaders of labor have made political bed with some men who have opposed, during their entire lives, everything that was beneficial to labor. Let it not be said that I condemned labor unions. Labor unions are essential to the welfare of this government. For more than a quarter of a century I have devoted my best efforts to the end that the laboring man might receive fair treatment in the courts of the country. He has been my friend and I am his friend. I am so much his friend that I would impress upon the members of this Association a full realization of the fact that the hour is fast coming when the man who labors for a living and who belongs to a union is going to need, as he never needed before, the unselfish advice and counsel and sympathy of the lawyer. May the members of our profession catch the vision and arise in the hour of need to the high place where noble and unselfish service will be sorely needed at their hands.

But we are constantly faced with the cry for a change in our law. Ordinarily, this cry comes from that particular branch of the profession who are not entirely satisfied with the open trial in the courts of the land.

As a matter of truth and fact, we have the most admirable system of laws of any state in the union. Our procedure is simple. The rules and principles adopted and followed by our Supreme Court are wise and just. This fact is recognized by a large majority of the members of the profession. Of course, those who believe that all human rights must be shunted aside that in any way interfere with the efforts of man in conducting business to the end that money may be made, are constantly desiring changes in our law. Can it be that some of our brethren who have devoted their splendid ability to sustaining the contentions of clients who are unwilling to meet just demands made upon them because of their wrong doing, have been improperly influenced as a result of their employment?

Complying with the action of this organization, I have appointed a committee to study the question of just what changes, if any, should be made and you will hear from this committee later.

In conclusion, I speak to you upon a matter which affects me personally not at all, but which concerns me deeply. It is the sacred duty of this organization to guard the profession against the dangers which threaten it. The service rendered by the lawyer is different from the service rendered by any other man. The litigant that employs the lawyer not only buys his knowledge and his skill, but he buys something more. He buys the reputation and in a sense, he buys the character of the lawyer.

There are a few lawyers in Mississippi who find it difficult to win any cases in the county in which they live. The very fact that they are connected with a cause surrounds the cause with doubt and suspicion.

There are many lawyers in Mississippi who win many of their cases that probably ought not to be won because such men have so lived in the past and have so conducted themselves as officers of the court and as citizens that the mere fact that they are connected with a cause will persuade the jury to believe that the cause is just. Thank God that this is true; that good faith and straight walking receives its reward in the practice of our profession.

These facts demonstrate the folly and injustice of a lawyer contracting with some powerful litigant at so much per day or so

much per hour for service. Can it be that members of our profession will permit any litigant to employ them as the mechanic is employed or as the carpenter is employed; so much per day for his services? The legal profession should never countenance such procedure. If ethical lawyers persist in this practice, then the door of fraud will stand wide open, ever inviting the lawyer of easy virtue to enter. Such litigants usually live a great distance from the place of litigation. They employ a lawyer in Mississippi at so much per day, and, of course, they must depend entirely upon the lawyer to report just how many days or how many hours are devoted to their service.

I call upon the members of the profession to renounce this practice. If the lawyers of ability will refuse to enter into competition in an effort to obtain such employment, the hour will soon come when litigants who require able attorneys will place their cases in the hands of such attorneys and rely upon the integrity of the attorney as to the fee. This is as it should be.

This address has been different from addresses delivered on similar occasions. It will not meet with the approval of all of my brethren.

For more than a third of a century my life has been largely spent in the court houses of the country. I believe I understand what takes place in the court house, the cause for the necessity of law suits, the manner in which law suits are conducted, the subterfuges sometimes practiced in the courts of the land and the problems which confront the lawyer. And I have attempted to discuss these practical questions.

The profession has been good to me. You have honored me beyond my deserts. My heart is filled with concern for the profession and with gratitude to you. I could not, if I would, be silent concerning the matters to which I have referred.

The greatest of all of the sons of "thee and thou"—the Quaker —after writing much foolishness, was confined in prison and then for the first time he wrote a book worthy of his intentions. The title of the book was "No Cross—No Crown."

No man can render service to humanity or to his profession and escape the penalty of censure at the hands of good men, as well as bad.

I might have taken advantage of this opportunity to prepare an address dealing in generalities and filled with compliments to the profession; such might have provoked some expressions of ap-

proval from this assembly. I have preferred that my last effort as President of this Association be devoted to a sincere, however humble, effort to render some service to the profession. With all of my heart do I thank you for the honor conferred upon me in the past.

I predict a record of magnificent accomplishment at this meeting of the Mississippi State Bar Association here in the historic city of Vicksburg.

I thank you. (Applause).

The next thing on the program will be an address by Mr. L. Barrett Jones of the Jackson Bar, member of the Board of Governors of the American Bar Association. I take great pleasure in introducing Hon. L. Barrett Jones of Jackson.

MR. JONES: Ladies and gentlemen of the Mississippi State Bar: The word "message" denotes to me brevity, and I promise to keep within that definition of the term.

The American Bar Association, when organized in 1878, adopted as its object and reason for its existence, the following: "Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation and of judicial decision throughout the Nation, uphold the honor of the profession of the law, encourage cordial intercourse among the members of the American Bar and to correlate the activities of the Bar organizations of the respective States on a representative basis, in the interest of the legal profession and of the public throughout the United States."

In the carrying out of these objectives, the Association has set up what may be termed a four-point program, which may be stated as follows: The relation of the lawyer to the public; the relation of the lawyer to the administration of justice; the relation of the lawyer to his profession; and finally, the relation of the Bar and the Public to the Lawyer.

With reference to the relationship of the lawyer to the public, the American Bar Association has long sought to impress upon the Bar that it has an active duty to the public. It has worked out many public and legal questions through its committees, in the hope of rendering service to the Nation, and today it maintains in that field such committees as: The Committee on Administrative Law, The Committee on Professional Ethics and Grievances, The Committee on Communications Law, The Committee on Maritime

Law, and last, but by no means least, The Section on Legal Education and Admission to the Bar.

On the second point, the relation of the lawyer to the administration of justice, the American Bar Association maintains the Section on Judicial Administration, which now has seven committees working on that intricate subject, and I commend to the judiciary of the State the purposes of that Section, and hope that they will participate in a constructive way in the work it is undertaking. Not the least accomplished by the Association in this field are the new Federal Rules of Procedure, which are a living monument to the late Thomas W. Shelton of Virginia, who died without knowing that a battle he waged for more than twenty years was finally won.

The relation of the lawyer to his profession is a subject which has been constantly stressed. The work of the Committee of the Section on Legal Education and of the Committee on Professional Ethics and Grievances have contributed much to an understanding by the individual members of the bar of their relation to their profession, and that work goes on unceasingly.

The Association, several years ago, took cognizance that the profession owed something to the individual lawyer, and in that field much of late has been accomplished. We believe that we have fairly well solved the perplexing law-list question which was taking a total of $11,000,000.00 a year from the pockets of the American lawyer. There are rough spots yet to be worked out, but it can safely be asserted that that situation is under control.

We next tackled the everlasting question of useless duplication of law-books, and while the answer has not yet been found, satisfactory progress has been made, and we shall solve that question perhaps more successfully than even the law-list question.

Also, in the last two years, we have been working on the question of public relations. In the end, the American Bar Association will maintain a Public Relations Director, and the Committee on Professional Ethics and Grievances, of which I have the honor to be a member, only last month published an opinion, sanctioning the use of radio and newspaper advertising by Bar Associations, but most emphatically not by individual lawyers.

I should not fail to mention that during the last number of years, we have given considerable time and spent considerable money to eliminate the unauthorized practice of the law, both individual and corporate, and sharp, stern progress has been made in that field.

The American Bar Association long since recognized the essential fact that no matter how much time, energy and money it spent in the duty of questions and theories, and the development of programs, no success could come to its work unless it had the coöperation of the State and local Bar Associations. The national Association can spend its lifetime in the field of study and recommendation, but it takes the state and local Bars to make its work effective. More than that, the American Bar Association must have the expressed point of view of the local and State Bar Associations to do anything like a correct formulation of a program, based upon national opinion. If it can not get these expressions, it gropes in the dark on any subject. We all know that in a democracy, much of our law represents compromise. Much of it has worked admirably; some of it not so well; and a great deal of it, in retrospect, is ludicrous for the reason that the compromise has been reached either without knowledge or without regard for the expressed opinion of the country. In a day when every principle of law, common, constitutional and statutory is in a state of flux, there can be no hope for anything like a philosophical development of the law, much less a uniform development, and no hope for a proper administration of justice through law, unless the lawyers of this nation become vocal as to opinion, and cooperative in work.

This Bar Asscіation has a part in the functioning of the American Bar Association. It has its vote, its voice, and its power in that Association. It, therefore, has a duty to aid in formulating the policies for which the Association stands, and it certainly can not shirk and will not shirk its responsibility by failing to cooperate with the American Bar Association in whatever program the American lawyer, through his representatives, sets afoot.

The American Bar Association earnestly seeks your cooperation—and that, fellow members, is my message. (Applause).

THE CHAIR: Gentlemen, we have reached the point in the program where there will be an open discussion of the policies of the Bar, led by Judge Frank E. Everett.

JUDGE EVERETT: Mr. President, Members of the Mississippi State Bar: it was rather a task that was assigned to me to discuss for a few minutes policies of the Bar. I think it was a punishment inflicted upon me by the committee because of my inability to attend the meeting of the program committee when this program was arranged.

So far as I know, the Mississippi State Bar, since the Act of 1932, has not adopted any particular policies. Yet the time has

arrived, it seems to me, when certain definite policies should be adopted by the bar.

The difference in my position here and Mr. Reily's position is that he says he was shot at when a boy, and I am likely to be shot at before I sit down.

I would only suggest briefly a few things that might be adopted by the Mississippi Bar as a policy to be followed. I shall mention only some of them, and some matters will be discussed more fully by Mrs. Hulen and by any one else who wants to join in the discussion.

One of the things that I think should be a never ending policy of the Mississippi State Bar is to work to a better friendship and feeling among the members of the bar, one with another, and more confidential relations between the members of the bar.

Then, too, the Association should look with a jealous eye upon the professional conduct of the members of the bar, and it should be its never-ending policy to prosecute quickly and efficiently every member of the bar who violates the standards of professional ethics which has been set up as our guide. That is absolutely, in my mind, necessary in order to restore or effectuate a more confidential attitude of the public towards the members of the bar; and I think unless that is done, confidence will never be restored to the place it should be by the public in the members of the bar.

Then, I think too, that the Mississippi Bar should adopt as one of its standing policies the discussion at every meeting of the Association of some question of importance, not only to the bar, not only to the courts, but to the public in general. The lawyer is supposed to be a leader; he is supposed to take an interest in all matters, all public questions, and he should be a leader in his community in all such matters. If he does not take that position and assume the responsibilities of leadership, so far as his community is concerned, he has certainly failed in one of his duties as a lawyer.

I might, if you will pardon me, suggest just a few questions that the bar might study, discuss and solve, which would be of interest to the courts and of interest to the public. For instance, we might look to a constitutional amendment in order that we might increase the Supreme Court by one or three judges, thereby giving the gentlemen, who so faithfully serve us now, assistance in the great work that they have to perform.

Again, we might study the question of consolidation of counties and reduce the public expenditures at least by half. Back in the horse-and-buggy days, small counties were necessary, but now with concrete roads, concrete highways, and gravel roads running all through the county, there is not a man in the county who cannot reach any other part of his county in from ten to forty minutes; because all of them have practically good roads to travel on, and they have automotive power with which to carry them. Therefore the necessity of small counties is a thing of the past. It may be remembered by some of you that we have in Mississippi one or two counties especially, so small that on some occasions there have not been enough jurors in the county to try a fellow charged with crime. There is no need for that, and I think the lawyers might take the lead in Mississippi in working those things out.

Then again, we might consider the question of our legislature. I don't know how many fellows there are down there, but we might consider districting the State for the election of senators and representatives, and thereby reduce the number by three-fourths and increase the efficiency ten times.

Those are questions that the lawyers and the public as a whole can study and work out to the great interest of the public.

Then, too, there are a number of things that the Bar of Mississippi might take the lead in; that is, the unification of certain laws. Take, for instance, marriage and divorce. Practically every state in the union has a different law with reference to marriage and divorce. Some of us might wake up some morning and think we had been divorced, and find ourselves married to two or three women, and that would not work!

Then, there is the question of traffic relations. Every state has its own traffic regulations. Down in Mobile not very long ago, driving through that beautiful little city, I had gone down the street with lights down the center—we have them here in Vicksburg, and as I turned into another street with no lights at all, a policeman called my attention to them way over in the corner. I said, "I was trying to make a left hand turn." He stopped me and finally let me go on, saying "Hell, go on, you have broken every traffic regulation of the city." Now I didn't know what they were; they didn't have a sign that I couldn't make a left-hand turn; nothing but a big policeman. If we would work on matters of that sort, we would probably have uniformity, as we do in the Negotiable Instruments Law, as we do in so many of the states; that is, have them regulated and unified by various states, so that we would at

least know how to drive an automobile when we get out of the State of Mississippi.

So my friends, with those broad suggestions, I leave it with you. I do think that this Bar Association should adopt a policy of having some question of public interest at least discussed; something of interest to everybody, not only the Bar, but everybody, and have that discussion thoroughly threshed out in every meeting of the Bar; until we reach the place we can go out and ask for the passage of laws, if necessary, or the repeal of laws, if necessary, to accomplish the things for the most good for the most people.

I thank you. (Applause).

THE CHAIR: We shall be pleased to hear from any other member of the bar.

MR. EVERETT: Mrs Hulen will continue the discussion.

THE CHAIR: We will be delighted to hear from Mrs. Elizabeth Hulen.

MRS. HULEN: There are, I believe, two groups who censure our State Bar Association: one group criticizes the organization upon the ground that save for providing an agreeable social gathering once a year it accomplishes very little; the other group finds the general fault with the Association as is often found with fishing trips, namely; that there is always some one "who wants to fish." There is a presumption that I am talking to the first group this morning.

I do not believe that an organization of this type need be forever promoting a radical reform to justify its existence. Its chief contribution is in merely existing, if it exists as an organized group ready to be depended upon to promote, when and if the occasion arises, the best interest of courts, lawyers and litigants. However, I feel that at the present time an occasion has arisen which demands the concerted action of the Mississippi State Bar Association.

General interest in courts has increased enormously in the past few years. Chief Justice Hughes, in a recent address before the Law Institute in Washington, stated that a proposal to build a new Supreme Court Building was made many years ago when Mr. Chief Justice White was head of the Court, and that Judge White opposed such a plan on the ground that should the court move from the Capitol in Washington into a separate building, interest in the court would decrease and the general public would forget its ex-

istence. The amusement with which this story was received was evidence of the contrary.

However, with an increase in interest in courts has come an alarming decrease in respect for courts. The lay public no longer stands back in awed and respectful silence. Criticism of judges, courts and lawyers is upon the lips of the general public. Particularly wide-spread and severe is the criticism of the outgrown technicalities of legal procedure.

Last spring I accidently witnessed an incident which occurred in one of our Chancery Courts which was thought-producing. A will case had been hotly contested throughout an entire day. Late that afternoon, it was announced that a settlement had been reached and the Chancellor stated that he would sign a consent decree the next morning. That night in a public restaurant the Chancellor overheard some of the parties to the lawsuit viciously attack the personal integrity of the judge, of some of the lawyers, and the integrity of the Court. The next morning the Chancellor refused to sign the decree and had the parties summoned in contempt of court. It developed during the pleas for mercy that the remarks had been caused by a misunderstanding of one of our most technical rules of evidence, which, according to the belief of the parties, led to a concealment of the truth. I cite this incident not in objection to the particular rule of evidence involved, but as illustrative of the tendency on the part of litigants to no longer submit to a supposed miscarriage of justice due to procedural technicalities. Whenever a respect for courts is necessarily obtained as to any great number of litigants by force, the very existence of courts is threatened.

Illustrative of the spirit of our times is the rapid and alarming growth of the administration of justice by boards and commissions. At hearings before such boards and commissions there are practically no procedural rules and little regard is had for the rules of evidence. With the bad has been thrown away much of the good.

Further illustrative of the spirit of our times is the serious proposal that a layman be appointed to the Supreme Court of the United States.

At the present time every thinking lawyer realizes the seriousness of this situation—realizes that a procedural house-cleaning is coming. The only question is whether the lawyers are to lead this movement themselves or whether it is to be done for them without their valuable advice and counsel, with the result that

there may be swept out with the trash many of their most valuable tools.

I realize the difficulties and objections to a Bar Association leading this reform. Lawyers rarely agree among themselves as to the details thereof. The question, when localized to any particular rule of procedure or practice, is highly controversial. The history of the movement, both in England and the United States, has shown the impraticability of lawyers actually formulating procedural reform. The Congress of the United States recognized this difficulty and most wisely placed the responsibility of such a reform in the federal courts upon the Supreme Court of the United States.

In view of the urgent necessity and public demand for such reform and in view of the inherent inability of lawyers as a group to formulate such a reform, and in view of the high type of men now sitting upon the Supreme Court of the State of Mississippi, I would like to suggest that the Mississippi State Bar Association spend the next year in studying the necessity for a change in the practice and procedure of our courts and in studying the actual functioning of the federal courts under the New Federal Rules, with a view to adopting at the next session of this Association, which meets prior to a regular session of our legislature, a bill to be actively sponsored by this Association, authorizing the Supreme Court of the State of Mississippi to formulate and adopt rules of practice and procedure for the courts of this state. (Applause).

THE CHAIR: We shall next hear from Mr. Tom Brady, Jr. of the Brookhaven bar.

MR. BRADY: I am grateful for two things that have been said: one was what our president said, that he wanted to read what he said so he would not make a mistake in what he said; the other was what the chancellor said, that something ought to be done for the public generally. Therefore, I have written something that I want to read: (reading)

COMMENT ON THE ADMINISTRATION OF JUSTICE IN THE MISSISSIPPI STATE COURTS

THE BENCH:

It appears in speaking of the bench that the officer known as the Justice of the Peace need not be discussed. Lawyers who practice in the Justice of the Peace Courts either rotate the suits which they file or for personal reasons go to a special Justice of the Peace. This statement must not be construed to mean that

there are not some good honest men who hold the office of Justice of the Peace.

In the outset I want to say that, in my opinion, the Circuit Judges and Chancellors cannot be bribed with money. Generally speaking, I believe, in criminal cases they want to see justice fairly administered. However, they are human and subject to all the influences that move other human beings in their acts, generally and in the administration of justice. Therefore, the influence of close personal friends and the doubtful result of elections which must be held, I am sure unconsciously affect many of them. This may not be true in rare instances. It may be noted that I have used the phrase "in rare instances." I hope every Circuit Judge and Chancellor will apply the "in rare instances," to himself. The small salaries paid to Circuit Judges and Chancellors do not appeal to many attorneys to seek the position of Circuit Judge and Chancellor. Their responsibilities are great and generally speaking they study and are conscientious, even when unconsciously influenced in the discharge of their duties. I feel, therefore, that the legislature, since money has but little value, should increase their salaries.

The Chief Justice of the Supreme Court and the Judges of the Supreme Court, in my opinion, are less influenced by the personal friendships and the probable results of elections than Circuit Judges and Chancellors. The Supreme Court Judges are elected for eight years and they haven't so much to dread as the Circuit Judges or Chancellors, on account of being fearless in the administration of justice. I think our Supreme Court is as far and able as any or most of the State Supreme Courts throughout the Union.

It has been said lately that the divisions of our Supreme Court are to remain the same but the personnel of the divisions is to be changed from time to time. I think this is a good idea because lawyers have prayed for their cases to come before one or the other of the divisions, depending, of course, upon what they egotistically think is their influence with the particular division.

I would not, if I had it in my power, make a single change in the membership of our Supreme Court. It may be that some abler lawyer could be secured to replace some of them but it would be taking a chance and I have faith in the integrity of our Court as now composed. I would, however, even it struck me between the eyes, have the utmost fearlessness expressed in the opinions of our Supreme Court.

I cannot think of more difficult work than that discharged by the members of the Supreme Court of the State of Mississippi.

They never decide a case but that they are subjected to some criticism and they must wade through long records containing nonsensical questions and briefs of lawyers who have not studied their cases, until they are blinded—not to a sense of justice but by overwork. I, therefore, think their salaries should be increased, and I want to say here that the subterfuges heretofore resorted to in order to increase the salaries of the Circuit Judges and the Chancellors and the Supreme Court Judges, though their salaries have been inadequate, cannot appeal to a conscientious citizen.

MISSISSIPPI BAR ASSOCIATION:

The Mississippi Bar Association should do something toward improving the character of its membership, ethically and educationally. I am sure I shall be criticized for the statement which I am now going to make but I am told, and I have reason to rely on the truthfulness of the statement, that the Bar Association has largely resolved itself into a political machine and a drinking and social organization. As between these two branches of the Association, it is difficult to say which is the most harmful.

The presidency of the Bar Association should be considered an honor and should not be solicited, and any person who solicits his election to the presidency of the Mississippi Bar Association is a disgrace to the Association.

Is it to its credit that it has undertaken to make some poor lawyers, who were not able to do so, pay a five dollar membership fee before being allowed to practice?

It may be said to the credit of the Association that in the past and at present at its solicitation, speakers of great merit have been selected and their influence has been salutory.

This is about all I have to say at present. It can be improved.

BAR COMMISSION:

I hope it will not be considered boastful when I say I believe I have a hundred per cent in attendance at the Mississippi Bar Commission meetings, except that I did not attend the meeting last night, and as a member of the Commission for a year past, I want to say nothing of any practical value has been accomplished by it. One of its duties, together with the advice of members of the Supreme Court, had to do with ethics and I have heard but little said about ethics. In one instance, an ethical question was raised and be it said to the credit of the president of the Bar Association and

of the Bar Commission, the Hon. Marion Reily, that he declined to agree to "whitewash" the particular individual involved. It did not appear to me the desire of the members of the Commission to do anything more, as it appears was the proper course to pursue, than to have the matter referred to the Committee on Ethics of the Bar Association.

It was discussed publicly at a Bar Commission meeting that the honor of becoming a member has been solicited. If this has happened, I can speak of it only as "gutter" behavior.

MISSISSIPPI BAR:

It should be the purpose of every member of the Bar to see that exact justice is done, because the bringing about of justice is more important than the winning of a case; but what we want, as attorneys, in one instance is to secure a judgment and collect some money for our clients and ourselves, and in the other instance is to prevent the securing of a verdict and save our clients from the payment of money, and to collect large fees. It is sickening to think that any member of the Bar would undertake to select unfair jurors, or to secure witnesses who know nothing of the facts, and to resort, in arguments, to unfair practices. In other words the lady holding the balance, with her eyes blind-folded, should be highly regarded, but, she seems to be unthought of by us.

Because of the fact that the statutes relating to champerty and maintenance are ignored, I am in favor of repealing them. The rule of ethics preventing the solicitation of cases through any agency, including "runners", preachers, teachers, members of the Board of Supervisors, and that class of lawyers who write directly to other lawyers' clients for the purpose of robbing them of what rightfully belongs to them, should be revoked so that there may be a real "free for all", in the practice of law in the State of Mississippi. There are some lawyers who hesitate to solicit business directly or indirectly and the few of this type of lawyer are at a great disadvantage.

It is quite evident, gentlemen of the Bar Association, that my comments are not arousing a great deal of enthusiasm.

In many counties in our state, we find that district attorneys have working arrangements with lawyers and in such instances if they represent the plaintiff, the defendant does not have a fair opportunity to secure justice. If they represent the defendant, the plaintiff is so situated. The district attorney is a very important officer of the court and of the state. His duties when conscien-

tiously performed are of the greatest value. His salary should be increased and he should not be allowed to engage in the practice of civil law.

Organized crime, as we speak of it, so I have been told by the judges and by others, thrives by reason of the fact that the criminals and certain officials cooperate and mutually profit by such cooperation.

I want to say that, when justice was thwarted by bribery in the Roman Empire, it fell. It is the duty of the Bar to assist our courts, which are the corner-stones of our government, and unless they do so, I fear for our government.

Permit me, please, gentlemen of the Bar Association, to express my gratitude on account of having the generally solicited opportunity to express myself as I am doing. I am quite certain I shall not profit in any way by what I have had to say. The members of the Bar Association personally are pleasing and courteous and here I should say, we have had a most excellent secretary of the Mississippi Bar Association. I refer, of course, to Mrs. Alice Nevels. The judges are cordial and accomodating but these qualities will not safeguard the administration of justice, and without this, I do not believe that our government created for the people, including, of course, the average man and worker and the corporation, can exist. It is the duty of every lawyer to assist our judges in the administration of justice. The Bench is the corner stone, the very foundation of liberty. It is through the Bench that we must sink or swim, stand or fall.

Again, gentlemen of the Bar Association, I wish to thank you for the opportunity to express myself as I have done. (Applause).

MR. F. Y. DABNEY: Mr. President, I wish to offer a resolution.

THE CHAIR: Mr. Dabney.

MR. DABNEY: This resolution has to do with the authorized practice of law by lay collection agencies.

As chairman of the Mississippi State Council of the Commercial Law League of America, I have been requested to introduce this resolution and ask its adoption by the Mississippi State Bar. I might also say that the resolution is also sponsored by the American Bar Association.

The secretary of the Commercial Law League of America has requested that this resolution be presented here, in the hope that it may be adopted.

In collaberation with my friend, Mr. Marcellus C. Green of Jackson, Miss., who represents the American Bar Association in connection with this matter, I assume that this resolution will have to go to a committee. (reading)

WHEREAS, there has been much agitation in recent years over the unauthorized practice of the law by lay collection agencies, and

WHEREAS, it is the desire of both the lawyer and the lay collector that any objectionable practices be discontinued; and

WHEREAS, committees of the several bar associations have been making exhaustive studies of these objectionable practices having in view, if possible, the avoidance of multitudinous litigation on the subject; and

WHEREAS, in furtherance of said objects there has been formulated a Statement of Principles acknowledged to be applicable to Collection Agencies, which Statement of Principles define the limitations to which said Agencies should be confined so as not to infringe upon the legal profession; and

WHEREAS, the American Bar Association and the Commercial Law League of America are cooperating and sponsoring adoption of this uniform Statement of Principles by all of the State Bar Associations; and

WHEREAS, said Statement of Principles should be adopted by this Bar Association;

NOW, THEREFORE, be it resolved by this Association that it is improper for a collection agency:

(1) To furnish legal advice or to perform legal services, or to represent that it is competent to do so; or to institute judicial proceedings on behalf of other persons.

(2) To communicate with debtors in the name of an attorney or upon the stationery of an attorney; or to prepare any forms of instrument which only attorneys are authorized to prepare.

(3) To solicit and receive assignments of claims for the purpose of suit thereon.

(4) In dealing with debtors to employ instruments stimulating forms of judicial process, or forms of notice pertaining to judicial proceedings, or to threaten the commencement of such proceedings.

(5) To solicit claims for the purpose of having any legal action or court proceedings instituted thereon, or to solicit claims for any purpose at the instigation of any attorney.

(6) To assume authority on behalf of creditors to employ or terminate the services of an attorney or to arrange the terms or compensation for such services.

(7) To intervene between creditor and attorney in any manner which would control or exploit the services of the attorney or which would direct those services in the interest of the agency.

(8) To demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, irrespective of whether or not the agency may have previously attempted collection thereof.

MR. DABNEY (continuing): I move the adoption of the resolution.

MR. BUTLER (of Jackson): Second the motion.

THE CHAIR: I will appoint a committee to receive the resolution and study it, and action will be taken on it at a later hour.

MR. DABNEY: That is the desire.

THE CHAIR: I will appoint on that committee Messrs. N. S. Williamson of Meridian, Robert H. Powell of Canton, and S. M. Graham of Meridian.

(Whereupon the meeting recessed to 2 P. M. the same day).

THURSDAY, JUNE 9th, 2:00 P. M.

PRESIDENT REILY (in the chair): The meeting will come to order.

I will recognize Mr. Hugh N. Clayton.

MR. CLAYTON: Mr. Chairman, and members: this morning we heard Judge Everett talk about policies of the State Bar, and we heard Mr. Brady give some impressions with reference to the State Bar and the State Bar Commissions. It has been the observation of some that we made one mistake in the Bar Act, which is the act under which we are operating, namely, the act passed in 1932 by the legislature, in that there is no provision for the carrying over into the new administration the old officers, so that programs initiated in a previous administration and not completed might be brought forward and continued into the new administra-

tion. In other words, under the present set-up as we have it, when Mr. Reily's administration ends tomorrow and the new president and new commissioners take office, there likely will be no old officers; there might be some old commissioners, but more than likely the majority of the commissioners will be new men, and the unfinished program will be in the hands of new men, not familiar with it and possibly not interested in such policies. So this resolution is offered so that we may have the last two presidents of the State Bar *ex-officio* members of the Bar Commissioners. The Bar Commissioners is a body created by statute, and of course, that can be changed only by the legislature, but the act creating the State Bar provides that the State Bar can appoint such committees as it wishes, and other things, as provided in the statute. We offer this resolution calling for the creation of an advisory committee.

Practically every business organization recognizes the principle that you should keep the old men who are experienced and know about the business, when the officers change. This is the creation of an advisory committee, which actually adds two more to the commissioners, the last two immediately past presidents, who will meet with the Commissioners every time the Commissioners meet, with the idea of carrying on the program of the bar, so that the program of the bar will not be an annual thing of twelve months' spurts, but any program initiated by one administration will be continued until properly completed, and that is the reason the resolution is offered. It is believed that it will serve a salutary purpose. I do not anticipate any objection to it. I move the adoption of the following resolution:

RESOLUTION TO CREATE ADVISORY COMMITTEE

WHEREAS, Section 24, subdivision 2, of Chapter 121, of the Laws of 1932 of the Mississippi Legislature creating the Mississippi State Bar provides that "The Association shall have the right to make rules and by-laws not in conflict with any of the terms of this act concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the business of the Board and of the State Bar," and

WHEREAS, in order that there shall be a unified program of activity of the Mississippi State Bar and a continuity of action and aims, therefore

BE IT RESOLVED, that there is hereby created an Advisory Committee to be composed of the present president and the last two

immediate past presidents of the Mississippi State Bar; that said Advisory Committee shall meet with the Bar Commissioners at such time as they may be called together by the president; that it shall be the duty and function of said Advisory Committee to suggest to the Bar Commissioners such a program of activities and aims as it deems proper and to keep before the Bar Commissioners such matters as have been started but not concluded under former presidents. However, this Advisory Committee shall have no power, as such, to vote at Bar Commissioners' meetings and its function shall be only advisory;

That the personnel of this Advisory Committee shall change annually with the change in the president of the Mississippi State Bar and shall only be composed of, at any time, the present president and the last two immediate past presidents of the Mississippi State Bar.

MR. J. H. CULKIN: I second the motion.

THE CHAIR: You have heard the motion as seconded, what is the will of the body in regard to it?

All in favor of the adoption will say "aye", opposed "no" and the resolution is adopted.

Just before we adjourned there was presented to us a matter touching collection agencies. I presume you heard it read. I stated that I would appoint a committee. I have appointed that committee, composed of Mr. N. S. Williamson of Meridian, Mr. S. M. Graham of Meridian and Mr. Robert H. Powell of Canton. I hope you gentlemen will confer as soon as you can and give us the benefit of your judgment in this matter.

Gentlemen, we are going to proceed with the election of officers. According to the program which has been arranged, it is now in order that you make your nominations for president.

MR. GABE JACOBSON: Mr. President, ladies and gentlemen of the Mississippi State Bar. I am happy indeed that it does not take an orator to extol the virtues of the member of the bar whom I am going to place in nomination for president for the ensuing term.

The gentleman whom I nominate is a graduate of the University of Mississippi both in the academic and law department. He was a very brilliant student, and he was a member of the board that put forth the first annual of the University of Mississippi and gave it the name of "Ole Miss", which it has carried ever since.

After leaving the University he practiced law for four or five years, and then became Chancellor in 1906, and served one term as Chancellor and another term for three years, when he resigned to go into partnership with the late and lamented Edward Mayes. This gentleman is one of the old guard of the Mississippi Bar; he has been a constant attendant at our annual meetings and a worker in its ranks. He is a man qualified particularly for the duties that would devolve upon a president of an association. He is especially gifted with these attributes and characteristics that make him a leader of associations. I do not care to take up your time further, as I know a body of lawyers like yourselves hear more speeches that you want to hear.

The member whom I nominate is none other than G. Garland Lyell. (Applause).

MR. ALEXANDER CURRIE: Members of the Mississippi Bar;

"Has anybody here seen Kelly,
Kelly with the green necktie?"

I am happy that I can join in the sentiment expressed by my distinguished friend about the candidate that he has nominated. I would not detract from him in the least. It will be sufficient and I will have performed a pleasant duty when I shall have named for president the member whom I shall soon mention to you.

My friends, I do not know whether the candidate that I shall nominate had the early advantages of a college education, but I do know that he typifies the expression of our illustrious president this morning when he said that

"The heights by great men reached and kept,
Were not attained by sudden flight,
But they, while others slept,
Toiled onward through the night."

The candidate that I shall nominate and place before you as a suitable and acceptable president, is a post-graduate of the "college of experience and hard knocks." He is a man who I believe, feels the impulse of the average practitioner. He is a man who will be able to encourage the lawyer who has had less opportunities than some, while at the same time he will be able to hold hands with those on the other side who have had varied experience and opportunity.

My friends, the election of a president of the Mississippi Bar transcends the personal ambition of any individual member thereof.

Only one consideration should be thought of and that is: who is the man, by virtue of personal qualities, elements of friendship, those qualities that make us feel at home when we are in his presence, those qualities that make the young aspire, those qualities of leadership that will enable him to soothe wounds that might ensue when controversial questions arise. I rise to place in nomination the name of such a man, in my humble conception.

I rise to nominate a man who has fellowship with his fellow-lawyers in the lowly communities as well as in our centers. I arise to nominate a man who exemplifies the sentiment of one who said:

> "Let me live in a house by the side of the road
> And be a friend to man".

I rise to nominate a man who will be able to join together in the sweet fellowship of our association those of us who perchance have been estranged through the years, a man who can talk to judges on the bench with the same pulsation of heart as to the man on the street, large enough to recognize his own limitations, and broad enough to forgive them if they be in his fellow man.

You heard the beautiful sentiments expressed about those who live along the great Mississippi. My friends, I believe that we would honor ourselves, that we would honor our great profession and our Association, that we would be able to go from here and feel in our hearts the sentiment of one who said:

> "Long, long shall our hearts with sweet memory be filled
> Like a vase in which roses were distilled;
> You may break, you may shatter the vase, if you will
> But the perfume of the rose clings around it still."

Soon we will go from the historic city where lie the mingled dead of the north and south, the city which has entertained us so royally, and we shall go and take our respective places among our fellow men.

I rise to nominate Bob Kelly (Applause). I believe we can go from here feeling that it is well and good that we came here. I believe in the election of Bob Kelly to the presidency of this body we shall add to the list of the illustrious men who have served us so well as presidents in the past. I believe that Bob Kelly exampifies all those attributes and characteristics that best symbolize the universal sentiment and the attitude of our bar.

I therefore, Mr. President, with pleasure present my friend of many years, a friend of all the lawyers, a friend wherever he is,

one who can and will be trusted and respected and revered, Hon. R. M. Kelly of Vicksburg. (Applause).

THE CHAIR: You have in nomination Hon. G. Garland Lyell and Hon. R. M. Kelly. Are there other nominations?

MR. ALEX BRUNINI: I rise as a member of the Vicksburg Bar for the purpose of directing your attention to the fact that we are your hosts here in this city. We trust that you have had a most magnificent time. We trust that you have enjoyed yourself and that you will desire to return here as often as you will. We want you to feel, however, that as individual members of the Bar of the State of Mississippi, we do not want you to think that we of the Vicksburg Bar, or any part of it, personally has brought you here and has expected a repayment of our gratitude by the selection of any one man to the presidency of the State Bar Association. We want you to feel that we are your hosts, and as your host you are to do as you please in this city of Vicksburg. It is with that thought in mind, Mr. President, Ladies and Gentlemen of the Bar, that I take great pleasure in seconding the nomination of my friend, your friend and the friend of ninety-per cent of the Bar of the State of Mississippi, whether he be poor, rich or in whatever circumstances—over which no one has control, my friend, G. Garland Lyell.

THE CHAIR: The nomination of Mr. Lyell has been seconded.

MR. CULKIN: Mr. Chairman, ladies and gentlemen, I voice the sentiment of each and every member of the Bar in this historic city, and the observations made by my good friend, Mr. Brunini. Be it far from me or any other members who has personal greed enough to invite a guest to his home and say directly or indirectly for whom he shall vote. The name of R. M. Kelly has been presented to you and the name of G. Garland Lyell—not that I love my good friend, Lyell, with whom I have been associated in a varied way, that I love him less, but because of my intimate association with my good friend, Bob Kelly (Applause), who has won a crown of immortality for assisting those who fall by the wayside; for that reason, and that reason alone—not as a Vicksburgan, not as a member of this Bar, but as a combination of all these, and more especially of these attributes, I ask you to select our friend, Bob Kelly as next president of the Mississippi Bar Association. (Applause).

MR. T. J. LAWRENCE: Mr. Chairman, ladies and gentlemen, I am going to make a speech this afternoon, not for the bar

of Vicksburg but for myself, and, my friends, from the depth of my heart, I rise to say some words in behalf of that illustrious son of Vicksburg, Bob Kelly, whom I have known for twenty years; a man who has lent a helping hand to every young lawyer. He served as district attorney for three and a half terms, and I never met a fairer, a more honorable, square-shooter at the bar than Bob Kelly. He has stood in the court room and fought for the rights of his clients. He is a gentleman, and the kind of man I would like to see at the head of the bar for next year. I trust you will cast your vote for Bob Kelly. I thank you. (Applause).

MR. JOHN T. SMITH: I desire to say just a word seconding the nomination of Hon. G. Garland Lyell as president for the next year. I believe no lawyer in Mississippi is more qualified, in the course of his life practice no one has touched every phase of human life in our great state to a greater extent than has this distinguished Mississippian.

I am reminded of a story that is illustrative of his early training. He attended a one-teacher school. Everything had gone wrong that day, and the lady in charge of the school had been rather disturbed, but to add to everything else that had happened, the Board of Trustees showed up in mid-afternoon. She was then engaged in her class in English history, and concluded that the best thing to do would be to complete that lesson, and naturally she thought the best thing to do was to call on the brightest member of the class, so she turned to Garland and said "Garland, who signed the Magna Charta?" He shifted from foot to foot and finally said "I don't know, I didn't." One of the trustees sitting in the back of the hall, shifted his quid of tobacco and said to the teacher, "Ma'am, I don't like the looks of that 'air boy, call him back up here. I believe he did sign it."

His loyalty to this Association, his efforts in behalf of every program that has ever been advanced to this Association, commend him to the favorable consideration of the lawyers of our great State, and I have no doubt but that he would be a worthy successor to the illustrious gentlemen who have held this honored position. His love of the bar and of the law reminds me of a story, of some fellows a few days ago who had been down to the satisfactorium. The drinks were passed around, and one of these boys arose and he says "Here's to my country, bounded on the north by the Great Lakes, on the south by the Gulf of Mexico, on the east by the Atlantic and on the west by the Pacific." The drinks went around once more, and the patriotism of another arose, and he says, "Here's to my country, bounded on the north by the north pole, on the south

by the south pole, on the east by the rising sun and on the west by the setting sun." The drinks went around again, and the third had to express his love of country, and he said "Here's to my country, bounded on the north by the Aurora Borealis, on the south by the Days of the Equinox, on the east by the Vortex of Chaos and on the west by the Day of Judgment."

I say to you of the Mississippi Bar that that man had a love for his country no greater than does Garland Lyell love the law, and I commend him to your favorable consideration. (Applause).

MR. D. C. BRAMLETT: I desire to congratulate you on being assured of having a first-class president in either one of those whom you have nominated.

I arise at this time to second the nomination of a man whose characteristics are such as do honor to Old Ireland; who possesses intelligence, eloquence, and a genial and lovable disposition. It has been said of the Old Emerald Isle that it banishes sorrow, and they call it Ireland.

There has been considerable discussion as to why Grant was so anxious to get into Vicksburg. There was some talk about his hanging around DeSoto Island, but I have my idea why he wanted to get to Vicksburg—to hear Bob Kelly deliver the address of welcome.

So, Mr. President, the two men placed in nomination before you are my friends of many years standing, but at this time I just cannot second the nomination of any candidate except that of Bob Kelly, who will make an ideal president of the Mississippi State Bar. I thank you. (Applause).

THE CHAIR: You have heard both candidates nominated and the nominations have been seconded. I would like to hear a brief discussion as to the method of selection.

MR. BUTLER: I move that the nominations be closed and that the election be by ballot.

VOICE: Second the motion.

THE CHAIR: You have heard the motion that the nominations be closed and that the election be by ballot. All in favor of the motion will say "aye"; opposed "no"; the motion carried.

I shall appoint as tellers Mr. D. C. Bramlette, Mr. Martin Miller and Mr. Gabe Jacobson.

(Whereupon the tellers distributed the ballots and reported the result to the chair).

THE CHAIR: The vote stands Kelly 149, Lyell 133, and you have elected Hon. R. M. Kelly.

MR. TULLOS: I move that the election be made unanimous.

MR. STENNIS: Second the motion.

THE CHAIR: It has been moved and seconded that the election be made unanimous. All in favor of the motion will say "aye"; opposed "no"; and the election has been made unanimous.

MR. MARTIN MILLER: Mr. President, members of the Mississippi Bar, when the very name of our Mississippi Bar is mentioned, we naturally think of certain personalities, for instance, the Cassedys, the Whitfield family, and so on. When we strike the Hattiesburg bar we naturally think of the Currie family, and we could call them off almost all day; there is Dan and Neil and Alexander—they could almost have a county down there of their very own. The Currie family have done so much for our bar, but what has the bar done for the Curries? I do not think we could select any one more worthy of a position of honor that Hon. Alexander Currie, and it is my pleasure and privilege to present the name to this illustrious body of Hon. Alexander Currie as a candidate for the place of vice-president.

MR. TULLOS: I second the nomination.

MR. J. D. THAMES: I have enjoyed Mr. Currie's friendship since a little boy, as did my father before me. I know if he were here he would want personally to second the nomination of Mr. Currie. I consider it a great honor to second the nomination of his friend and mine.

VOICE: I move that the nominations be closed.

VOICE: Second the motion.

THE CHAIR: It has been moved and seconded that the nominations be closed. All in favor of the motion will say "aye"; opposed "no". The motion carried.

MR. JACOBSON: I move that the secretary of this Association be instructed to cast one ballot for the house for Mr. Alexander Currie as vice-president.

VOICE: Second the motion.

THE CHAIR: All in favor of the motion that the secretary be instructed to cast one ballot for the assembly for Mr. Alexander Currie for vice-president, will say "aye"; opposed "no"; the motion

has carried, and the secretary will cast one vote for the assembly for Mr. Currie as vice-president.

It becomes necessary to elect a second vice-president.

MR. S. M. GRAHAM: There is a member of this Bar whom I have known for many years, and whose progress I have watched down through the years, that gentleman is Hon. Henry Hilbun of Laurel, and I present his name to you in nomination as your second vice-president.

MR. CLAYTON: Two years ago the Association followed the custom started when the Junior Bar was created of electing a second vice-president from the Junior Bar Section. You followed that custom in Meridian, and for that reason I would like to place in nomination the name of Mr. Charles A. Sisson of Clarksdale for second vice-president. Last year he made an exhaustive research into the matter of the effect of the county court in Coahoma county upon the circuit court of that county, which was carried in the Law Journal and about which so much favorable comment was made in Meridian. He will make a fine vice-president, and, therefore, I would like to place in nomination Mr. Chas. A. Sisson of Clarksdale as second-vice-president.

MR. MARTIN MILLER: I second the nomination, and move that the nominations be closed.

MR. GRAHAM: I wish to say that I nominated Mr. Henry Hilbun without his knowledge or consent, and I am convinced of the wisdom of the suggestion made by Mr. Clayton, and I therefore would like to withdraw his name, because if we are to have a Junior Bar Section, we have got to show them some consideration. We have got the best part of the Association in the Junior Bar Section and we have got to encourage them and I, for one, want to do it.

I move that the nominations be closed.

MR. MILLER: Second the motion.

THE CHAIR: It has been moved and seconded that the nominations be closed. All in favor will say "aye"; opposed "no"; and you have elected Mr. Charles A. Sisson as second vice-president.

MR. POWELL: I move that the secretary be instructed to cast one vote for Mr. Charles A. Sisson as second vice-president of the Mississippi Bar.

BY THE CHAIR: It is so ordered.

I will ask Mr. Will Watkins, Mr. Culkin and Mr. Wingo to escort Mr. Bob Kelly to the Chair.

THE CHAIR: Gentlemen of the Bar, there has never been an hour since I have been a member of this Association when my heart was so overflowed with genuine delight than at this time when I present as your president the man who has always been in the thick of the battle, standing for all that was good. On behalf of the profession, I take great pleasure in presenting to you your very distinguished next president, Hon. R. M. Kelly. (Applause).

MR. KELLY: If I had prepared any words to say on this occasion, the chase that Garland Lyell gave me would have cast them out.

No words that I or any other man could say could express to you this afternoon the appreciation I feel of the honor which you have conferred. No other honor that I could possibly anticipate would be greater to me; would be more appreciated by me than the honor of being president of the Mississippi State Bar. It is an honor to be a member of the bar, it is an especial honor to be a member of the Mississippi Bar, but it is a greater honor to be president of that Association. No honor that I could imagine could be higher than to be your president. With your assistance, with the assistance of loyal friends that I have made while a member of this Association, I know that with your help, and only with your help, can the work be carried on to the satisfaction and the betterment of our Association in the manner in which it has been conducted by my friend and by your friend, Marion Reily. (Applause).

Whatever I can do and whatever there is in me to be able to do for the success of this Association, for the health of the members of the Association, for the advancement of any member of the Association, who may be unjustly criticized or unjustly charged, I pledge you on my honor I will do it. I know that I will have your help and the help and assistance of the Junior Bar. With the friendship of the Bar that has been expressed by the Bar for me, I feel that when we meet in convention another year from now, the reports of your Association, the reports made by the managers and the officers of your Association will reflect honor and glory on the officers, on the members and on the Mississippi Bar as a bar.

I thank you all from the bottom of my heart for the honor conferred, and I only hope that I will be able to measure up to the duty that is required of a president of this Association.

It is with regret and it is with sincere sorrow that I see the past president step aside, but God giving you health, Marion, I

know that I will have your help, as I will have the help of every other personal friend and every other friend of the Mississippi Bar Association.

I thank you, God bless you until I see you again. (Applause).

THE CHAIR: Are Mr. Currie and Mr. Sisson in the audience? I take great pleasure in presenting to you as your first vice-president a man who will serve you with distinction and be an honor to this bar.

MR. CURRIE: Mr. President, Mr. President-elect of the Bar Association: As a humble subordinate of your distinguished president, I promise fidelity to each and every member of the Association, and I pledge to you and to our Association the best that in me lies—to the promotion to the best interest of our Association, our great profession. I am grateful for the honor you have bestowed upon me, feeling my unworthiness, but deeply grateful. I thank you. (Applause).

MR. CLAYTON: Mr. Montgomery said that Mr. Sisson was called home last night, but I would have made the nomination anyway.

THE CHAIR: We will now have the election of a member of the House of Delegates to attend the American Bar.

MR. LOTTERHOS: Ladies and gentlemen of the State Bar, I am not going to make a long speech. I don't think it is necessary in this connection. As you know, we have the privilege of electing one man to represent this State Bar at the American Bar Association. The man I have in mind has been very active in our State Bar work for a long time and has served on the Bar Commission for several years. He is interested in the work, and I am satisfied he will ably and sincerely represent us there. I take great pleasure in nominating Mr. Elbert Johnson of Indianola.

MR. MARTIN MILLER: Second the nomination, and move that the nominations be closed.

THE CHAIR: All in favor of the nominations being closed will say "aye"; opposed "no"; and the nominations have been closed.

Will some one move that the secretary be authorized to cast one vote for all?

MR. POWELL: I make that motion, that the secretary be instructed to cast one vote for the assembly of Mr. Elbert Johnson

for member to the House of Delegates of the American Bar Association.

VOICE: Second the motion.

THE CHAIR: It has been moved and seconded that the secretary of this Bar cast one vote for the assembly for Mr. Elbert Johnson for member to the House of Delegates of the American Bar Association. All in favor of that motion will say "aye"; opposed "no"; and you have elected Mr. Johnson to this position.

The next order of business is the election of Commissioners, and the members of the various districts will please separate into different parts of the hall and make your selections.

(Whereupon after the ballots were taken and counted, the following commissioners were announced as having been elected):

District No. 1	Ben H. McFarland
District No. 2	W. L. Guice
District No. 3	Hindman Doxey
District No. 4	R. D. Denman
District No. 5	W. A. Strong, Jr.
District No. 6	Everett G. Truly
District No. 7	Harry Bryan
District No. 8	O. H. Barnett, Jr.
District No. 9	Landman Teller
District No. 10	H. F. Case
District No. 11	Dugas Shands
District No. 12	C. W. Sullivan
District No. 13	R. S. Tullos
District No. 14	F. D. Hewitt
District No. 15	E. B. Williams
District No. 16	J. E. Caradine
District No. 17	J. H. Caldwell, Sr.

THE CHAIR: We will now be favored with some music; Miss Lucy Vaccaro will sing, accompanied by Mrs. Mae Moe Minter.

(The selections were "Ah Sweet Mystery of Life" and "Will You Remember" from Maytime).

THE CHAIR: Gentlemen, I don't know when I have ever heard two voices that were what we term true voices, young, vibrant, beautiful, like the two voices we have heard today. "Love, ever young, will remember the thrill of youth, that day in May."

On behalf of the Association I want to thank very sincerely the artists who favored us with these beautiful selections.

The next order of business is the selection of the place at which we will hold our next annual meeting.

MR. BIDWELL ADAM: Mr. President, ladies and gentlemen; I want to say to you that this convention will be fortunate indeed next year in coming to the gulf coast; fortunate because we want you down there and we have the facilities to take care of you after you get there.

On yesterday morning the Harrison County Bar delegated me as their representative to extend to the Mississippi Bar an invitation to meet next year in the famous city of Gulfport.

It is not necessary for me to tell you of the history of Gulfport nor of the beauties and glories that adorn our shore line. It is not necessary for me to tell you that that little city has just completed a harbor costing $200,000, accommodating several hundred yachts, sail boats, ships and every other describable pleasure boat. We have magnificient homes, magnificient hotel, and before I left the hotel today to come to the convention hall I received a telegram from ten thousand mermaids inviting members of the Mississippi Bar to come to Gulfport. They said "No matter how young or how old they might be," they would carry them out to the depth of the sea and when they brought them back to land, they would be weathered but wiser. We want you to come to Gulfport and sit by the side of the sea wall and listen to the music of the sea that sounds like the music of a conk shell; we want you to come to Gulfport, because you can stand upon the docks of the harbor and watch the sun as it sets in the west, the glory of day and the glory of night; what more can we offer you than that?

I know the time is short, I know that you want to go on that boat ride, and so, without consuming any more of your time I just want to say that Mr. White, chairman of the Chamber of Commerce of Gulfport, every lawyer in the city of Gulfport, every man and every woman, every girl in the city of Gulfport says "Come to the city of Gulfport and take a swim with us." (Applause).

MR. L. H. DOTY: Mr. Chairman and members, it becomes my pleasure to extend to you an invitation to the oldest city in Mississippi, the third oldest city of the United States, one of the most beautiful spots on the face of the earth, the peninsula that has no rival for beauty, and no better people ever lived on the face of the earth than live there. We have everything that Gulfport has and ten times more. We have no harbor for large ships but we do have boats upon which you can sail out on the billows and look

at the gulls sailing, and you can sit in the shadow and watch the mermaids playing from the light house, and they play from 6 o'clock in the morning till ten in the evening, and no man has ever gone there who has not returned rejuvenated and ready to start again.

We promise you, ladies and gentlemen, if you come down to Biloxi, you shall have possession of the entire peninsula from Ocean Springs to Gulfport—we will let you go to Gulfport once in a while.

There never was, there never will be, another spot created by the hand of God that will equal the peninsula upon which sits the city of Biloxi. We have people down there that are hospitable. When you come there they know you have come for pleasure, because our principal occupation is pleasure and we know how to give it out.

I have this letter—this telegram I will read. I do not want to take up any more of your time. You have a cordial invitation to come to Biloxi and be our guests. We will promise you all the mermaids you want to look at, we will promise you flowers, everything in the way of good food, and when night comes, you can go to your room in one of our beautiful hotels—we are able to accomodate 2500 guests—that won't be any more cost to you when you come than it would cost anybody else who is going there now.

We have everything down there for your pleasure and comfort. We have some things down there that my modesty, if I have any, and certain legal conditions disqualify me from making a statement—but you come and we will show them to you. We have got some things that our friend has not in Gulfport; we have some of the nicest dance halls in the south.

Now vote for Biloxi, the Riviera of America, the most beautiful place on the face of the earth, and where you will be welcomed with a hearty hand grasp, and you will say "How soon before we can come back?" (Applause).

MR. EVERETT: I think I know the personnel of this Bar Association: they don't want to look at boats and mermaids; they want to look at real men and women. When Bienville pulled his boat on the Back Bay and tied his boat and drove down the stob, he marked one of the most beautiful spots of the nation, and I cannot help but think that the natives of that day were probably as good looking as they are today.

I really have come to believe that there are only three places in Mississippi suitable for a Bar Convention: one is Natchez, where

we have been, Vicksburg where we are now, and Biloxi where we are going. So let's go. (Applause).

THE CHAIR: It is my duty to read these telegrams that have come in regard to holding your next meeting:

"Gulfport, Miss.

"We extend a cordial invitation to your organization to hold your next convention in Gulfport. We have ample hotel accomodations. Mix business with pleasure, boating, bathing, fishing trips to islands, good golf course, and so forth. Make it Gulfport for nineteen thirty-nine.

"Gulfport Chamber of Commerce."

"Gulfport, Miss.

"We join city of Gulfport and other civic clubs a cordial invitation to hold your annual convention in Gulfport next year.

"Kiwanis Club of Gulfport."

"Gulfport, Miss.

"Gulfport Rotary Club joins with other civic clubs and chamber of commerce in extending to you a cordial invitation to hold your 1939 convention in Gulfport. We assure you of our cooperation to make the convention most successful. We wish for you a successful convention this year.

"Rotary Club of Gulfport."

"Gulfport, Miss.

"The people and officials of the city of Gulfport extend to the Mississippi State Bar Association a most cordial invitation to hold their next convention in Gulfport. We have ample hotel and recreational facilities and trust that we will have the pleasure of entertaining the convention next year in Gulfport, the center of the Mississippi gulf coast, the playground of Mississippi.

"J. W. Milner, Mayor."

"Blioxi, Miss.

"May I extend congratulations and sincere good wishes for a most successful convention in Vicksburg. I wish to extend a cordial invitation to the Association to utilize our hotel and exceptionally fine convention facilities for the 1939 meeting. We have unlimited

meeting rooms and recreational facilities, including fine eighteen hole golf course, tennis courts, swimming pool and numerous others. We would feel highly honored with the opportunity of serving you and assure our full cooperation in making the meeting very successful and enjoyable.

"D. O. Conwill, Manager Edgewater Gulf Hotel."

(Whereupon, by rising vote, Biloxi was elected as the next meeting place).

FRIDAY, JUNE 10th, 9:30 A. M.

PRESIDENT REILY (in the chair): The convention will please come to order.

MR. DABNEY: Mr. President, the committee on the unauthorized practice of law is ready to report.

THE CHAIR: I am going to have them report now.

On yesterday I appointed a committee to study and consider the proposed resolution concerning collection agencies, Messrs. Graham, Williamson and Powell. We will hear from that committee.

MR. WILLIAMSON: I don't know why the committee put it off on me—made me chairman, and to make this report, but they did, and we report the resolution "Does Pass" and we move its adoption.

We felt that the resolution could only have a moral effect, but since it is absolutely harmless, we think it ought to be adopted.

THE CHAIR: To refresh the members of the Bar as to the meaning of the resolution in a cursory way, state the substance of the resolution.

MR. WILLIAMSON: Frankly, it is an imposition on the legal fraternity by collection agencies who have no status as attorneys; and disapproval of their methods of operating through the names of lawyers; operating with their legal forms; and threatening people with legal forms with statement that process is issued or will issue; sending legal forms in the way of a threat; and trying to use the names of lawyers in carrying on their business without being lawyers, in some instances handling business that lawyers need. That is the substance of the resolution.

THE CHAIR: You have heard the discussion and the motion that the resolution be adopted. Is there a second?

MR. BRAMLETTE: Second the motion.

THE CHAIR: All in favor of the adoption of the resolution regarding collection agencies will say "aye"; opposed "no"; and the resolution is adopted.

Gentlemen, on yesterday you were requested to select your Commissioners in the districts. The by-laws require that this report be announced in convention. Will you please announce the result of the election.

District No. 1—Ben H. McFarland
District No. 2—W. L. Guice
District No. 3—Hindman Doxey
District No. 4—R. D. Denman
District No. 5—W. A. Strong, Jr.
District No. 6—Everett G. Truly
District No. 7—Harry Bryan
District No. 8—O. H. Barnett, Jr.
District No. 9—Landman Teller
District No. 10—H. F. Case
District No. 11—Dugas Shands
District No. 12—C. W. Sullivan
District No. 13—R. S. Tullos
District No. 14—F. D. Hewitt
District No. 15—E. B. Williams
District No. 16—J. E. Caradine
District No. 17—J. H. Caldwell, Sr.

THE CHAIR: We have with us Mr. Graham, the chairman of the Junior Bar Section, and we have reached the point in the program where they will make their report.

MR. JESSE H. GRAHAM: Mr. President, members of the Mississippi State Bar, ladies and gentlemen; for the benefit of the Bar who did not attend the last two meetings of the Mississippi State Bar, I would like to say the Junior Bar Section was created in Greenville in September, 1936, this being the second regular annual meeting of the Junior Bar Section since its creation.

By the terms of the resolution creating the Junior Bar Section, it required the Junior Bar to make its annual report each year to the State Bar Association.

At our convention in Meridian, being the first annual convention after its creation, we got down to regular business, and at that

convention we selected three major projects which we would endeavor to carry out during that year. The first of these objectives was to try to relieve and to prevent the encroachment on the practice of law by corporate fiduciaries.

The second was the unauthorized practice of law; and the third was the effort to be put forth to create county court districts throughout the State of Mississippi.

Committees were appointed to handle each of these subjects. The first committee to report will be that on the encroachment of the practice of law by corporate fiduciaries. Mr. L. O. Smith, Jr. of Jackson, Miss. is chairman of that committee, and he was unable to be here. Mr. W. A. Strong, Jr. of Louisville will read his report.

MR. STRONG: Mr. President, members of the Mississippi State Bar; from some unforseen emergency Mr. Smith had to leave, and about daylight this morning my friend, Mr. Jesse Graham, came to my room and asked me to make this report. I did not know it last night and I went to the dance, and joined with our illustrious president in dancing cheek to cheek with the beautiful girls of Vicksburg. I also accepted the invitation of the local committee to the "satisfactorium," so I have what is known as a hang-over. I will do the best I can to read this to you.

THE CHAIR: I really believe we have found an honest member of the bar!

MR. STRONG (reading):

REPORT OF COMMITTEE ON THE ENCROACHMENT OF THE PRACTICE OF LAW BY CORPORATE FIDUCIARIES

At the 1937 meetings of the Junior Bar Committee and of the Mississippi State Bar a resolution was adopted which limited the activities of corporate fiduciaries, and the Chairman of the Junior Bar Committee was directed to appoint a committee to prepare and present to the legislature of the State of Mississippi any legislation which the committee thought necessary to put into effect the principles set out in the resolution.

A committee was appointed by Chairman Jesse Graham of the Junior Bar Committee, said committee being composed of D. C. Cottrell, Jr., John C. Satterfield, W. A. Strong, Jr., and L. O. Smith, Jr. This committee met on January 22, 1938, immediately after the legislature convened. The committee prepared a bill to amend Section 3710 of the Mississippi Code of 1930, which sec-

tion defines the term "practice of law". The committee was of the opinion that Section 3710 of the 1930 Code was broad enough to prevent the practices which the Junior Bar Committee and the Mississippi State Bar had condemned at the 1937 session. However, an amendment to section 3710 of the 1930 Code was prepared by the committee so that corporate fiduciaries would be specifically pointed out and forbidden to practice law.

The bill was introduced in the House of Representatives and referred to the Judiciary Committee. The chairman and members of this committee contacted members of the House of Representatives and especially the members of the Judiciary Committee who were members of the Junior Bar and urged these representatives to assist in securing the passage of the bill. Favorable responses were received from the committee members, but the bill was not reported out of the committee until the last few days of the session and the legislature adjourned before the bill was placed on the calendar of the House of Representatives.

In view of the fact that the resolution adopted by the Junior Bar at the June 1937 session is directed to limit the activities of corporate fiduciaries and to prevent corporate fiduciaries from engaging in certain specific practices which constitute practicing law, and which practices are condemned by Section 3710 of the Mississippi Code of 1930, the committee is of the opinion that by sending to all banks in the State of Mississippi a copy of the resolution adopted by bar at the 1937 meeting, the result that we hoped to obtain by the amendment to Section 3710 of the Code of 1930 would be accomplished. The bar would in this manner direct the banks' attention to the prohibition contained in Section 3710 of the Code of 1930; at the same time advise the banks that its fiduciary activities should be limited as set out in the resolution. The bare condemnation of the encroachments by corporate fiduciaries on the practice of law is of no judicial consequence; nevertheless corporate fiduciaries are advised that the bar is of the opinion that the actions condemned by the resolution are illegal. The resolution will tend to prevent violations of Section 3710 of the 1930 Code. The committee, therefore, recommends that the Secretary of the Junior Bar Committee be instructed to send to all banks in the State of Mississippi a copy of the resolution adopted by the Junior Bar Committee and the Mississippi State Bar at the 1937 meeting, limiting the activities of corporate fiduciaries.

Respectfully submitted,

D. C. COTTRELL, Jr. W. A. STRONG, Jr.
JOHN C. SATTERFIELD, L. O. SMITH, Jr.

MR. STRONG (continuing): In other words, it is to eliminate the drafting of petitions for guardianship and administration and to eliminate the banks from filing accounts of guardians and administrators. We thought that should come under the act of lawyers and that a trust department should not do that unless they have an active attorney doing it.

I move that this be adopted and that a copy be mailed by the secretary to all banks.

MR. GRAHAM: I second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no"; and the motion is carried.

MR. GRAHAM: We had a committee appointed on the unauthorized practice of law, and Mr. J. C. Wilbourn of Meridian will present that report.

MR. WILBOURN: Mr. Chairman, ladies and gentlemen; I can not plead a hang-over because I have not indulged in the "Satisfactorium" as was acknowledged by one of the gentlemen preceding me; but I make this report for Mr. J. K. Travis (reading):

RESOLUTION ON UNAUTHORIZED PRACTICE OF LAW

WHEREAS, the Junior Bar Section of the Mississippi State Bar, at its June, 1937, meeting, adopted a resolution condemning generally the unauthorized practice of law, which resolution was ratified and adopted by the said Mississippi State Bar and, as we are informed, has had a salutary effect on unauthorized practice; and

WHEREAS, the practice of law by one holding judicial position is forbidden by statute and is unauthorized; and

WHEREAS, all judges and chancellors should refrain from accepting any professional employment or otherwise practicing law, even though without compensation, and should be so restricted by law; and

WHEREAS, there are certain important omissions in our present statutes as to the practice of law by judges and chancellors, one of which is the lack of sufficient restrictions as to practice of law by county judges, another, the lack of sufficient restrictions to prevent judges and chancellors from engaging in gratuitous practice of law, and another, the lack of adequate remedies to discipline those offending in such cases; and

WHEREAS, the best interest of the State of Mississippi, the Mississippi State Bar, and the judiciary will be promoted by the correction of these omissions by legislative enactment, and the judges and chancellors will thereby be protected from those seeking legal advice and service,

THEREFORE, BE IT RESOLVED:

1. That the Junior Bar Section of Mississippi State Bar reaffirms its former resolution in all respects, and urges that it be carried into effect as heretofore, in so far as possible, and that when complaint is made or it is otherwise deemed advisable, copies of such resolution be sent as heretofore to offending persons or parties, or to those likely to engage in unauthorized practice.

2. That it is our belief that the two proposed bills hereto annexed, or similar bills, should be approved by this body and presented to the Mississippi State Bar for its action and, if approved by the said Mississippi State Bar, that it take appropriate action to have the same introduced in the State legislature and enacted into law.

3. That copy of this resolution be furnished the Mississippi State Bar for such action as it deems proper.

Respectfully submitted,

J. C. WILLIAMS
LESLIE DARDEN
J. K. TRAVIS
Committee.

MR. WILBOURN (continuing): The two acts, omitting the titles are as follows (reading):

SECTION 1. Be it enacted by the legislature of the State of Mississippi, State Bar Shall Investigate Complaints Against Judges; The Mississippi State Bar shall have authority and it shall be its duty to receive, consider and take action upon all complaints or charges which may be filed with or submitted to it, alleging either personal or official misconduct on the part of any of the judges or chancellors of this state, or negligence on their part in the discharge of their duties. It may also institute inquiries upon its own motion in the same manner and to the same effect as though complaints or charges had been submitted on it, and any member of the State Bar may individually institute inquiries upon his own motion in the same manner and to the same effect as though complaints and charges had been submitted to

the State Bar. It shall be the duty of every attorney who may be a member of the State Bar to give information to it of any personal or official misconduct on the part of any of the judges or chancellors, or of negligence by them in the discharge of their duties. All complaints, motions and applications shall be addressed to the Board of Commissioners of said State Bar, and if the said Board of Commissioners shall after inquiry and investigation, consider that any judge or chancellor of this state has been guilty of personal or official misconduct, or of negligence in the discharge of his duties, it shall be its duty to designate a committee which shall formulate charges and lay them before the legislature of the state for such action as may be deemed by it advisable, or to take such other appropriate action as is allowed by law.

SECTION 2. That this Act shall take effect and be in force from and after its passage.

MR. WILBOURN (continuing): The other act, omitting the title:

SECTION 1. Be it enacted by the Legislature of the State of Mississippi; that Section 3696 of the Mississippi Code of 1930 be and the same is hereby amended so as to read as follows: Section 3696. Judges Not to Practice Law; It shall not be lawful for any judge of the Supreme Court, or a judge of the circuit court, or a chancellor, or a judge of any county court to exercise the profession or employment of an attorney or counsellor at law, or to be engaged in the practice of law either for fee or gratuitously; and any person offending against this prohibition shall be guilty of a high misdemeanor and be removed from office; but this shall not prohibit a chancellor or circuit or county judge from practicing in any of the courts so far as to enable them to bring to a conclusion cases actually pending when they were appointed or selected in which such chancellor or circuit or county judge was then employed, nor shall a judge of the Supreme Court be hindered from appearing in the courts of the United States in any case in which he was engaged when he was appointed or elected judge.

SECTION 2. That this Act shall take effect and be in force from and after its passage.

MR. WILBOURN (continuing): Mr. Chairman, I move the adoption of this Report.

THE CHAIR: Is there a second to this motion?

VOICE: Second the motion.

THE CHAIR: All in favor of the motion, as seconded, say "aye"; opposed "no"; the motion is carried.

From time to time various members of the Bar have felt that certain changes should be made in our pleading, practice and procedure; those suggestions have come from men who have given great thought and study to the question. I was instructed as president of this Association to appoint a committee to study the question of just what changes should be made in our pleading, practice and procedure. I appointed that committee composed of some of the most illustrious men who are lawyers in Mississippi. That committee has given a thorough study of the question. We are going to have a report from the committee this afternoon, and I am sure every member of the Bar is going to be affected by the report of that committee, because I am one who believes and has always believed that whenever any measure touching pleading, practice and procedure has the endorsement of the Mississippi State Bar we can take that question before the legislature of the State and have it enacted into law. Experience has taught me that the Mississippi Legislature now and in the past has been composed of clear-headed men who want the law fairly enforced. We had a beautiful example of that at the last meeting of the legislature. It may be improper for me to impose upon you by relating it, but there were certain evils existing in Mississippi regarding the jury system, and I knew that when these evils were pointed out to the legislature that that body would act. Though not instructed by you, I took it upon myself to go before the legislature and various committees and talk with them and discuss the jury law, and we had no trouble whatever in having incorporated into the law those changes that we thought would remedy the evils which we had in mind.

The committee is going to report this afternoon. Their report, if it is adopted by you, is going to be presented to the next session of the legislature. Therefore, I am going to ask you gentlemen present to be here and to get any one else you can to be present, if possible. It is one of the most important pieces of business before the Mississippi Bar.

The next thing on the program is the report on county court districts. The discussion will be led by Mr. Hugh N. Clayton of New Albany.

MR. CLAYTON: I don't know that I can plead guilty to the statements made by my two precedessors, because Judge McGowen and I went to the Methodist Conference before. As he was very

much in evidence last night, I had to watch my step; so I cannot plead guilty to having a swelled head.

The matter with reference to county court districts was discussed by the Junior Bar last year. It was brought before the State Bar, and the State Bar very enthusiastically endorsed it. However, when we started to go into the proposition, the biggest question confronting us was the question of financing, that is, how these courts should be financed. The idea was to create county court districts composed of two, three or four counties where we might have monthly tribunals to dispose of small matters which are now tried in Justice of the Peace courts; small matters that consume so much time in the expensive Circuit Court. I think we have about fifteen county courts. In the smaller counties we have circuit court probably two or three times a year, and frequently we will see some case involving probably $50, $75 or $100 take a day or two to try, costing the county an immense amount of money; and it keeps litigants from having a ready forum in which to settle their differences. I know in my own county there was a case where five dollars was involved, which took a day to try, and cost the unsuccessful party $125, and another matter, involving less than $100, consumed practically the entire week. They had been on the docket about five years, and the people felt that they were entitled to a trial. The excuse had been that there were larger and more important cases to be tried, and therefore, a hardship was worked on litigants and on the county. The cause of the administration of justice, therefore, suffered in the eyes of the public, who wanted to know why anything like that should be allowed to go on.

Our hope is that we might create county court districts where there would be some kind of trial open for those who had litigation and thereby give some relief to the circuit court and also cut down the expense.

In that connection a report was given by Mr. Charles Sisson of Clarksdale in which it was shown that that court had saved that county a tremendous amount of money, and also had given more speed to the administration of justice.

That committee was appointed, and this is the report of that committee after the lapse of a year. (reading):

REPORT OF COMMITTEE ON COUNTY COURTS

The committee on County Courts appointed by the Chairman of the Junior Bar Section of the Mississippi State Bar, begs leave to submit the following report:

The personnel of the Committee is as follows: H. Edwin White, J. H. Holloman, W. A. Bacon, O. B. Triplett, Jr., Ben A. Guider, J. Gordon Roach, W. A. Beard, Jr., G. B. Cousins, Charles A. Sisson, vice-chairman, and Hugh N. Clayton, chairman.

The membership of the committee was completed with the statements of the committeemen of their willingness to serve on November 1, 1937.

A conference was held between the chairman and vice-chairman in Clarksdale in the early part of November and a letter was sent to each member of the committee asking that he should consider the following propositions in connection with the problem of County Courts, these questions being as follows:

(1) What should be the amount of the salary of the County Court judge and reporter?

(2) What manner should be devised for raising the amount each county court district should supply and how should the amount be determined?

(3) Or, should the judges' salaries come from the State, as do those for circuit judges and chancellors?

(4) Taking into consideration the geographical location and assessed valuation of the particular counties over the State, what counties should be grouped together to compose the county court districts?

Following this letter a meeting of the committee was called to convene in Jackson on December 14, 1937. A full representation of the committee was not had, but a discussion was had with reference to what action, if any, should be taken with reference to the forthcoming regular session of the Mississippi Legislature. It was decided to submit to the members of the committee the proposition of whether the financing of county court districts should be a duty of the State or of the respective county court districts. There was also submitted to the members the proposition of merely securing an enabling act to allow such counties as so desired to create county court districts by vote of the electors of those counties.

No satisfactory solution was offered by any of the members as to how the proposed financing of the county court districts should be undertaken, and the majority of the members were opposed to a mere enabling act. At this particular time, which was just a few weeks prior to the convening of the legislature, there

was a controversy existing between the governor and certain members of the legislature and press as to the budget.

It was, therefore, decided that no effort should be made to submit the proposed bill creating county court districts to the 1938 session of the legislature. This decision was made following a strong denunciation of the County Court of Lee County by the Board of Supervisors of that county. This criticism of this court appeared in all the large daily papers of the State and was accompanied by a resolution requesting the representatives from that county to secure the passage of a bill abolishing the court in that county. This action was taken by the representatives, the bill passed by the legislature, submitting it to the vote of the electors of that county who overwhelmingly voted out the County Court.

It is the recommendation of this committee that the idea of county court districts be kept on the agenda of the Junior Bar Section and that a committee be appointed and authorized to study the matter further with the idea of making some definite and practical solution of the problem. It is the opinion of the committee that the knottiest problem in the whole matter is the question of determining how county court districts can be properly financed. Once this question is settled, the other features of the question can be readily worked out. The committee earnestly commends to all members of the Junior Bar and State Bar the further consideration of this matter and believes that it is of such merit that, although several years may elapse before a definite conclusion is worked out, it is worth any effort spent in its behalf.

HUGH N. CLAYTON, Chairman
County Court Committee.

MR. CLAYTON (continuing): We therefore submit this report to you. It is a question that we do not believe can be solved in a year or two because we have so many counties in the State who would have difficulty in bearing part of the burden. We have counties in the State two years behind with their warrants; they could not bear the burden. Therefore, the problem may have to be solved by having the State assume the responsibility of paying for the county court districts, if the bill should ever go through.

We do not recommend any definite program. We think it is one of merit and should be kept before the State Bar and the Junior Bar; and we do recommend that. We ask that this report be received and adopted, and I so move.

MR. DENT: I second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no"; and the report is adopted.

MR. DENT: It occurs to me that the committee has given some thought to this proposition and I was wondering if it would not be a good idea to continue the activities of the committee until the next Bar Association. I make that motion that this committee be continued until the next meeting of the Bar Association.

THE CHAIR: We had a formal adoption of the motion.

MR. DENT: That was another motion that I have just made.

THE CHAIR: State your motion again, Mr. Dent.

MR. DENT: I move that the present committee be continued for the same purpose until the next meeting of the Bar Association.

VOICE: Second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no"; and the motion is carried.

Next on the program is the presentation of the proposal to establish a Bureau of Identification and Investigation. Hon. Walker Broach, Jr. of Meridian will lead the discussion.

MR. BROACH: Mr. President, Mr. Chairman of the Junior Bar Section, Members of the Mississippi State Bar:

The Bar Association had the pleasure and privilege last night of hearing our distinguished Governor discuss the raising of a burden from the homes of our state in the form of taxation.

On behalf of the Junior Bar Section of the State Bar I will discuss with you very briefly this morning another burden that lies upon those homes within our state—a burden just as serious, a danger perhaps more grave than this burden of taxation, and that is, the burden and the danger of organized crime as we see it and as we view it, not only in the state of Mississippi, but within the entire nation. In fact, it has been estimated by competent authority that there is a hidden tax paid by every member of your home, every man, woman and child, of ten dollars monthly. In other words, if you gentlemen are married and have three children in your family, you, your wife and family pay an average of $50 monthly as a tribute to crime, and that is the rate that is being paid throughout the entire confines of this country of ours.

To illustrate, in the few brief moments that I have already spoken to you, two major crimes have occurred within this nation.

Long before this morning session shall have ended, there will have been at least two murders committed within this country of ours. And if it be of any reassurance to you, or if you think, perhaps, that might apply not to Mississippi, but merely to our congested or metropolitan areas of crime, let me tell you that, unfortunately, for the past two years, in 1936 and 1935, the State of Mississippi led the entire nation in the homicide rate. In fact, in 1935, one county within our state had a combined homicide total equal to the states of Maine, New Hampshire and Nevada combined; that was one single county within our state.

We have, in my judgment and in my limited experience, an enlightened criminal procedure. We are far ahead of many states. We have some splendid statutes on the books. I am reminded that in the legislative session—during the first legislative session of the present administration, there was passed a model marihuana act within the state of Mississippi. If there could be presented to you this morning statistics on this marihuana traffic that prays upon the minds and hearts and souls of our young men and women, it would startle you, and that traffic is growing in tremendous proportions. I am speaking now of our state, of the local situation.

In my district, which I have served for the past few years as district attorney, I recall one particular and most regrettable case, in which even a son of one of our highly respected court offiicials was sent to the state penitentiary under circumstances indicative of the use of this very weed. This is only one of such instances, and yet the marihuana traffic is peculiarly a thing that your local officers are almost incapable of enforcing. It is a thing that must be enforced by experienced men who are not known to the local offenders. We have a splendid criminal procedure and a splendid system of statutes, with but little enforcement machinery to speak of, except within some of the larger cities of our state where there are municipal departments of investigation and identification. It is organized crime I speak of, organized crime, which is in every village and hamlet and city of our state, large or small; organized crime that strikes at the heart of society itself.

We have, to my knowledge, within the past 100 years—in fact, since 1857, passed only two forward-looking pieces of legislation for the enforcement of our criminal laws; both statutes dealing with the taking of finger prints and photographs. Now in 1857 the legislature passed a statute allowing at a coroner's inquest the employment of a physician at an amount not to exceed ten dollars for his services. Ladies and gentlemen, ten dollars might have

been a tremendous fee in 1857, but you cannot employ a competent medical attendant to treat a child with the whooping cough in 1938. Yet that same identical statute has been upon our books since 1857. There was introduced a bill in a past legislature changing the fee from $10 to a reasonable fee, but that amendment did not even get out of the committee, and it is still upon the statutes—$10—hence, where expert testimony must be had, that fee must be either paid by the relatives of the offended party, if financially able, allowances of doubtful validity obtained from the court or governing officials, or else the case nol prossed, regardless of guilt.

With this in mind, there has been prepared and presented to the last legislature a bill providing for a Bureau of Identification and Investigation, which was introduced by Hon. George Ethridge, representative. This bill is largely an adaptation to our local needs of a model act proposed by the committee on Uniform Crime Records of the International Association of Chiefs of Police, and which model bill had been drafted by some of the best minds of our nation. It utilizes the various departments that we have already at Mississippi State College and at the University. The bill as drafted is designed as much for the protection of the innocent as it is for the prosecution and conviction of the guilty party. The bill proposes that no agent of the Bureau shall be permanently situated in any circuit court district longer than six months at a time; the purpose of which is to prevent any suspicion of any connection with the organized criminal forces of the district. The bill as drafted attempts to eliminate politics, so that there can be no chance of its being mixed up in politics, because if the organization is to be a political one, we would be better off then without one.

The set up of the board of control would consist of the attorney-general, together with the 17 district attorneys of the state, one sheriff and one chief of police to be appointed by the governor, and they in return to select a superintendent, who must be accepted and approved both by the governor of the state and the senate. Regardless of what appointive system may be had, it is proposed by this bill that a complete organization may be had so that the bill may not have to be later amended by the legislature. We would not need all the set-up at this time, but this contingency is provided for by the provision that the board of control shall have the power to either create or not create such departments as are provided, and the legislature is given immediate control over this matter by reason of its power to restrict necessary appropriations.

Mr. President, I now move you that this Association approve as proposed and as set forth, and as approved by the Junior Bar Section.

MR. GRAHAM: Second the motion.

I would like to say with reference to the motion that I don't know whether everybody has had the experience that I have had, but if they have they are bound to be in favor of some effort to furnish some means of investigation of crime.

Up to five years ago I never felt the necessity of locking my home; but five years ago my home was robbed and stripped of everything. Since that time I have been back home to the scenes of my childhood, back to the old mill pond; the store was closed. I asked a boy there in charge of the premises—I had known the owner all of my life—I asked him why the store was closed. He carried me and showed me where burglars had broken in the store. They had broken in so many times they had broken him up, and he had ceased to operate the store. He showed me the signs where the burglars had been, where they had broken the locks and the shutters and the doors, and he told me how they had rifled his shelves time and again.

I tell you, gentlemen, these are new conditions under which we are living, that call for scientific investigation and scientific research. As a result of scientific investigation and methods, it has been proven that ashes can be subjected to scientific analysis and tell what substances was used by the incendiary. In Chicago incendiarism has been reduced 66% in the short period of two years. That same thing can be brought into effect in detecting crime throughout this country. We have got to prosecute criminals and bring them to justice and protect the innocent.

It has come to my attention that a certain individual in the community where I live has made the boast that he was going to continue to head-up an organization of criminals until the State of Mississippi gave Walker Broach some finances to investigate him with. He gets only $3,000, I believe, but he has got a district one hundred miles long, and he is one of the most conscientious prosecutors of criminals we have in this state. They have all got respect for him, they are afraid of him; they are not afraid of his taking advantage, but they are afraid of him; afraid that if they get caught and Walker Broach gets the goods on them, that they will be convicted. But they know that Walker Broach cannot get the goods until the State of Mississippi gives him some funds. While I am on my feet I want to express my respect and admira-

tion for this young district attorney who has presented this matter so ably here today. I know what he will do if we uphold him and give him a chance. I think this is one of the most important things before this body today.

MR. BRADY: I don't want to make a speech. I want to know if there is not a working agency—is there not a working agency between the officers and the criminologists?

MR. GRAHAM: I say no. There might be, but that is a matter about which you will have to ask Mr. Broach.

MR. BROACH: I don't think there is any doubt but what in some instances you are correct. That is the reason why we say this department should be entirely divorced from politics. We want the bureau to be like Caesar's wife—we want it to be above even the breath of suspicion.

THE CHAIR: You have heard the motion and the second. Is there any discussion? All in favor of the motion will say "aye"; opposed "no"; and the motion is carried.

I am going to appoint Judge Sidney Smith, Mr. W. J. Vollor and Mr. Toxey Hall as a committee to go to the hotel and escort our distinguished guest, Mr. Keenan, to this building.

Ladies and gentlemen, we are very fortunate in having at this time Hon. W. H. Watkins, who is known to every member of this Association. We are not only going to be favored with an address by a scholarly, distinguished gentleman, but we are going to hear discussed the life of one of the really great Mississippians whom some of the present generation have known. I take great pleasure in presenting to you Hon. W. H. Watkins of the Jackson Bar.

MR. WATKINS: (This address, by the consent of Mr. Watkins, will not be printed here, but will appear under the Biographical Section of the Mississippi Issue to appear within the next month).

THE CHAIR: Something has been said about the battle that was fought here many years ago. I had a relative here in that battle. He was personally known to my friend, Mr. Bramlette. He had been on continuous duty, and it was just before dawn. This man was very long bodied and had very short legs. The northern troops had succeeded in breaking through and this man with a very long body and very short legs became frightened and he ran down the hill as fast as he could. The hill was very steep, his short legs shooting out under his chin like piston rods. Someone

asked him what was the matter. He said "I have fought until I have played clean out."

I thought you men had played clean out and that you would not be here this morning, but I am glad to see such a splendid audience and such a representative group to hear the distinguished speaker whom we shall hear this morning.

I am going to ask our very distinguished United States District Attorney, Hon. Toxey Hall, to present the speaker. (Applause).

MR. HALL: Mr. President, ladies and gentlemen; I never know what to expect when my distinguished friend, Judge Reily, undertakes to address an audience. Marion is a wonderful fellow, an orator of the old school. You know what I think about Marion? I am reminded of a little incident I was told about on one occasion when a fellow walked up to Marion's, and a negro was mowing the lawn and made inquiry as to where Mr. Reily was. The negro said, "Boss, Mr. Reily is not here today. He's going to be back tonight." When asked where he had gone, the negro said, "He left here to go to Memphis, and from there he's going to Chicago, and then to Los Angeles, but he's going to be back tonight." The visitor said, "Nigger, what you talking 'bout? Don't you know he can't get back tonight, going to all those places?" He replied, "Yes, sir, boss, he's sho' goin' to be home tonight." The caller asked how he went, and the negro said, "He went on his bull."

Ladies and gentlemen, when the program committee for the Mississippi Bar Association began casting over this nation for the purpose of selecting a speaker for this occasion, they were of one accord in selecting the distinguished gentleman who has honored us with his presence here today.

Our distinguished guest is a native of New England, having been born in Providence, Rhode Island. He received his literary education at Brown University, from which institution he graduated in 1910. Immediately he entered Harvard and continued there until he received his diploma in 1913, and then located in the practice of law in the city of Cleveland, Ohio, where he continued in the practice until the United States entered the World War. He thereupon enlisted his services and went with the expeditionary forces to France; served as a lieutenant in the United States army for a period of eleven months overseas. After the war clouds had blown away, our distinguished guest returned home and again resumed the practice of law in the city of Cleveland, Ohio.

You will recall that immediately following that bloody conflict there was a wave of crime that swept over this country. Recognizing his ability as an outstanding attorney, the Attorney-General of the State of Ohio selected our distinguished guest as a prosecutor to prosecute those major crimes in the State of Ohio, and so well did he discharge that duty and such excellent results did he obtain as a result of those prosecutions, that the President of these United States recognized in him merit and ability as an attorney, and when that bloody crime wave continued and grew throughout this country of ours, President Roosevelt called our distinguished guest to the city of Washington and placed him in charge of the prosecution of the major crimes throughout this nation, the violation of federal laws.

Our distinguished guest is not a man who has always said "Let George do it," but he is a man who has taken charge and has personally conducted the prosecution of some of the criminals of major crimes throughout this country. It was he who personally prosecuted Walter Baily, Machine Gun Kelly and other notable criminals of that type.

Recognizing the efficient manner in which he had discharged his duty, the President in 1936 promoted him to the position of assistant to the Attorney-General of the United States, and he now has charge of the Department of Justice Personnel in Washington.

We are indeed delighted, ladies and gentlemen, to have our distinguished guest with us to deliver the principal address to this Bar Association. I have the honor and the pleasure of introducing to you, ladies and gentlemen, Hon. Joseph B. Keenan. (Applause).

(The assembly arose).

MR. KEENAN: Judge Reily, Members of the Bar of the State of Mississippi: Before entering into the formal part of my function here this morning, I want to convey a message of greeting from your two senators. They were unable to be present at your annual meeting at Vicksburg. I had the pleasure of a few moments conversation with a man who has been, I believe, two times governor of your state and is now junior senator, Theodore Bilbo; and I had also the privilege the day before yesterday, with some other distinguished friends, of breaking bread with the inimitable, irreplacable, lovable man who I am sure you will never permit to get beyond the reach of your affection but whom the entire nation has adopted, Pat Harrison. (Applause).

This is my first visit to Mississippi, and I had much amusement and great interest and pleasure in participating as an ob-

server at your delightful banquet last night and listening to the less somber side of this meeting and hearing the stories from Mr. Abe Conn and the inspiring addresses of Mr. Lyell, Mr. Miller and your distinguished governor.

I heard many facetious references to the part of the country from which I sprang, and I have this message to give in return: I don't know what excuse General Grant had for remaining 47 days around the environs of this city but I know it would be worth many times that space of time for me, and I would feel richly repaid in finding my way into the hearts of the people and the delightful society I have been privileged to meet.

I am sorry that occasions like this require resort to reading papers. With members of the bar of a great state like Mississippi ably maintaining what the heritage of the law and the business of lawyers means to the members of the profession, it would be much better if we could sit down around a big table and exchange our ideas informally, but I know you will bear with me when I state that out of respect for this organization I have reduced my thoughts more carefully to language and I am going to transgress upon your good nature to read these remarks as they have been reduced to writing. (reading)

I need not dwell at length on how privileged I feel to have the honor of addressing such a group of representative men and women in this historic city and state. For this city and this state, which takes its name from the great river that flows through the heart of America to the sea, has played its significant and important part in the history of our common country. A history that has had a profound effect upon the larger history of the world. Profound because the establishment of our form of government marked a radical departure from the prevailing political ideas of the time that gave it birth. Ours was an experiment, but an experiment that succeeded—yet whose success was paid for step by step in blood and sacrifice.

The idea, however, and the political philosophy that sprang from it, namely: that the people alone have the right to govern themselves through their freely chosen representatives, which we call the *democratic process*, was not accepted over-night.

The American Revolution was not backed whole-heartedly by the people of the thirteen colonies.

The dreadful winter at Valley Forge and the treason of Arnold were physical blows that nearly wrecked the people's cause—but

it was the indifference and the cold callousness of Tories, who regarded Washington as a traitor to his class, that nearly strangled the patriot cause in its cradle, and all but smothered the first lusty cries of the young Democracy.

They too were for liberty, but liberty to them meant a freedom of enterprise, and if political liberty for the majority of Americans menaced the old order under which they had waxed strong and mighty, they would have none of it.

We all know how long and bitter that struggle for political liberty and the translation of the democratic idea of government from the realm of hope to that of reality was.

It succeeded because the American people were determined it should succeed. As lawyers, we should be proud of that success, because while laymen contributed an all important part in the struggle for its achievement, it was lawyers who led the way. The history of those early days is studded with the names of great Americans who were members of the profession. Public life was then the lawyers' natural forum, and the great educational process of bringing home to the mass of the American people the inherent wisdom of the democratic idea, was sponsored and fostered by members of the bar.

The great problems of the early days of the republic were debated on the hustings and in the legislatures, so that shortly before the outbreak of the War Between the States, I think you will agree with me that it can be fairly stated that the great fundamental constitutional questions had been settled. As a result of that great struggle the indissolubility of the union of the states making up the American democratic commonwealth was established.

In the years that have elapsed since Appomattox, we have been concerned mostly with ourselves. With the development of our great political system, however, there grew up the idea that while political freedom in the democratic state carried with it certain obligations laid upon the individual citizen, in the economic sphere, he was as free as the wind. Political activity was one thing—economic activity was another; and while the two were supposed to be united in a union designed for the betterment of all, the sphere of Government, with the passage of the years, came to be regarded solely as a purely monitory one.

This probably was a natural development when our Western frontier stopped at the Mississippi and land for the asking could be had. The advice of Horace Greely, "Go West young man," could

then still be taken literally; but with the introduction of the machine and the beginnings of the so-called industrial era; with the expansion of the country in territory and population and the development of the corporate structure as a device for the conduct of business on a national scale to meet the exigencies of the new age, it became apparent that if the democratic process as evolved in this country was to survive, economic freedom so-called too must have the field of its action, of necessity circumscribed. This was necessary else we would find ourselves politically free as always, but economically beholden to forces that had arrogated to themselves the democratic formula, but which in reality were not only undemocratic in their viewpoint and philosophy, but who would become more powerful than any form of government in this country might ever dare to be. Very few people sensed or saw this trend. As lawyers, we had long ago abandoned our traditional role. We had become the servants of business rather than those of the state. The fields of most of us had become narrowed and specialized, and unwittingly or not, we had become the entrepreneurs, the planners, and the aids in the construction of an organism that while it lived and had its growth within the orbit of the political system which we had evolved, yet nevertheless had not only derived the benefit of the political advantages of that system, but with its steady growth had presumed the crown, and by imperial fiat was ordering not only the government, but the lives of all of us.

We had surrendered democracy to an oligarchy of economic power built up under our very eyes; an empire of its own, which functioned behind the facade of a politically democratic government.

I say few people in this country sensed or saw the inception of this trend; and very few where it would eventually lead us.

Theodore Roosevelt did, and he was caricatured and maligned as a traitor to his class. Woodrow Wilson did, and but for the great war, under his leadership and the reforms which he had begun to initiate, we might have been spared the catastrophe of 1932. Franklin D. Roosevelt did, and under him reform has been carried to the point that no previous administration would have ever dared to attempt; and it was done because our political structure as well as our economic structure depended and still depends upon it.

Do not misunderstand me. I am not attacking big business *because* of its bigness. In a country as large as ours business of necessity must be big. Nor do I stand here attacking men, who

taking advantage of our extraordinary material resources, gave us an extraordinary material prosperty. But I do attack and I do inveigh against the *laissez-faire* attitude and the dog-in-the-manger philosophy that was willing to appropriate democratic political principles for the creation of a non-democratic hegemony of wealth.

Private enterprise is one thing; but in a democratic state and in this country especially, it is not to be used as the vehicle by which the state itself is submerged and made the satrapy of concentrated economic power; nor can such a state survive if it permits this submergence and the usurpation of its prerogatives.

Is this picture overdrawn? Do you doubt it? Let me then call as a witness a great American, now dead, who sensed the trend and saw its implications. I quote, speaking of the concentration of wealth in the hands of great corporate enterprises: "It is an arrangement by which hundreds of thousands of men who would in days gone by have set up in business for themselves, put their money into a single huge accumulation and place the entire direction of its employment in the hands of men they have never seen, with whom they never confer. These men, these quite autocratic managers, are thereby made, as it were, multiple individuals. In them are concentrated the resources, the choices, the opportunities, in brief, the power of thousands. They could never of themselves, of their own effort and sagacity, have accumulated the vast capital they employ, and employ as if it were their own; and yet they have not the full legal responsibilities of those who supplied them with it. Because they have the power of thousands, they have not the responsibility common to those whose power they use! It is an extraordinary anomaly! A modern corporation is an economic society, a little economic state; and not always little, even as compared with states. Many modern corporations wield revenues and command resources which no ancient state possessed, and which some modern bodies politic show no approach to in their budgets. The economic power of society itself is concentrated in them for the conduct of this, that, or the other sort of business. The functions of business are differentiated and divided amongst them, but the power for each function is massed. . . .

"Society cannot afford to have individuals wield the power of thousands without personal responsibility. It cannot afford to let its strongest men be the only men who are inaccessible to the law. Modern democratic society, in particular, cannot afford to constitute its economic undertakings upon the monarchial or aristocratic principle and adopt the fiction that the kings and great men thus set up can do no wrong which will make them personally amenable

to the law which restrains smaller men: that their kingdoms, not themselves, must suffer for their blindness, their follies, and their transgressions of right.

"It does not redeem the situation that these kings and chiefs of industry are not chosen upon the hereditary principle (sometimes, alas! they are) but are men who have risen by their own capacity, sometimes from utter obscurity, with the freedom of self-assertion which should characterize a free society. Their power is none the less arbitrary and irresponsible when obtained. *That a peasant may become king does not render the kingdom democratic.*"

He does on: ". . . I am drawing no indictment; no indictment that I could draw would be just. No indictment that has been drawn has been just, but only exaggerated and disquieting. The time for hostilities has gone by. The time for accomodation, for common understandings, for a surcease of economic warfare and the inauguration of the peace that will come only by common sacrifices and concessions, has come. I am simply trying to analyze the existing constitution of business in blunt words of truth, without animus or passion of any kind, and with a single, clear purpose. . . .

"I have used the corporation merely as an illustration. It stands in the foreground of all modern economic questions, so far as the United States are concerned. It is society's present means of effective life in the field of industry. Society *must get complete control* of its instrument or *fail*. . . ."

How true are the prophetic words of Woodrow Wilson, uttered almost thirty years ago, in an address before the American Bar Association. It seems as though they were the words of yesterday and today rather than those of a dead and almost forgotten era.

Will any man question Woodrow Wilson's sagacity? Will any man, upon reflection, viewing the visible world around him, doubt the wisdom of this observation? Is this stricture of Wilson's upon business Communism? Or, the vaporizing of a Fascist? They are strong words, it is true, but he has others that are stronger still.

I again quote from the same address: "The old order changeth—changeth under our very eyes, not quietly and equably, but swiftly and with the noise and heat and tumult of reconstruction. . . . The transition we are witnessing is no equable transition of growth and normal alteration. . . . Society is looking itself

over, in our day, from top to bottom, is making fresh and critical analysis of its very elements, is questioning its oldest practices as freely as its newest, scrutinizing every arrangement and motive of its life, and stands ready to attempt nothing less than a radical reconstruction which only frank and honest counsels and the forces of generous cooperation can hold back from becoming a *revolution.*"

I say to you that *that revolution* was at the doors of 1932 and that as Americans we should be eternally grateful that under Providence we had as the Chief Executive of this nation a man who had sat at the feet of Woodrow Wilson and was schooled in his political and economic philosophy.

Let me call another witness to the stand. This time I call a disciple of business itself and call your attention to an article which appears in *Fortune Magazine* for this month. It is entitled "Business and Government," and the import of it may be summed up in the by-line of the article itself and it is this: "Business, faced with an overwhelming political factor, should favor a more socialized state."

I quote from the article: ". . . There has been in the United States a nation-wide shift of the concept of the state and its proper relationship to private enterprise. For the purpose of historical accuracy it is necessary to note this shift has been going on for a long time. The purist could perhaps date its origin back to the Tariff of 1816, which was deliberately designed for the protection of American Industry, rather than for revenue; and it is very much in evidence, in the setting up of the ICC in 1887. The first big impetus, however, came with the World War when the Government actually ran the railroads and had its fingers in practically every business in the land. Thereafter, during the twenties, the Government became more and more preoccupied with economics, especially in the form of finance control through the Federal Reserve System. . . . The fact is that in operating the capitalist economy American business has consistently misappropriated the principles of democracy. American business has made use of those principles to its own enormous profit but it has failed entirely to grasp the social implications of its profit making. As representing the capitalist economy, business has an obligation to build a workable economic system. But by 1932 it was evident that it had failed to do this. It had failed, and it has since failed, to provide for approximately one-third of the American people. It has failed to provide these people with work, and hence failed to provide them with a livelihood, to say nothing of democratic opportunity, and in so failing it has created a class of persons for whom income

and sustenance are more immediately important than the preservation of those political assumptions upon which business grew to power."

Certainly no one in his senses would accuse the publishers of *Fortune* of being Fascists or Communists; yet they state boldly and incisively and in plain unmistakable language where the roots of our present difficulties lie. Private enterprise has not failed nor has the democratic process been tried in the balance and found wanting, but to quote from *Fortune* again: "What failed was the doctrine of laissez-faire, . . . as a marriage bond between a complicated political system and an intricate economic system, this doctrine proved inadequate. It was put forward by the early theorists in the belief that the sum total of the economic forces acting upon capital would cause capital to work for the good of the greatest number. And so long as the economy was expanding, laissez-faire did in fact accomplish this result. But with the advance of industrialism the automatic controls of the laissez-faire system . . . , became less effective. Every business man who is not kidding himself knows that. . . . Today, although there is scarcity on every hand, modern industry limits its production, and although demand is slight, it raises or maintains its boomtime prices. The results are half-speed operation and masses of unemployed."

These are not the words of Franklin D. Roosevelt, nor of any member of the Administration; they are the words of the oracle of business itself. If they were uttered by the President or by a member of the Cabinet, the cry would be raised that Fascism in America was imminent or that Communism was around the corner. *Fortune* goes on: "What American business faces, is, in fact, a far more socialized state. . . . If the present system is allowed to look bad enough for long enough it is conceivable that the people, seizing the economic power, will rise up against the principle of capitalism and abolish it in favor of the public ownership of all industry and finance."

Franklin Roosevelt saw that in 1932, as Woodrow Wilson foresaw it long ago in 1910. The effect under Roosevelt has been a liberalization of the capitalistic economy with the result that we have had a resurgence of the democratic idea with the New Deal as its symbol. The symbol of not only the political democracy that generations of our forbears fought to establish and maintain but of the new economic democracy which has given us the promise of a new hope and a better day. What is our duty as lawyers, you may ask, standing as we do on the threshold of this new era. In

reply I again refer you to the words of Wilson in the address from which I have so liberally quoted.

"We are lawyers. This is the field of our knowledge. . . . Our duty is a much larger thing than the mere advice of private clients. In every deliberate struggle for law we ought to be the guides, not too critical and unwilling, not too tenacious of the familiar technicalities in which we have been schooled . . . . but ready to give expert and disinterested advice to those who purpose progress and the readjustment of the frontiers of justice. We are upon the eve, gentlemen, of a great reconstruction. It calls for creative statesmanship as no age has done since that great age in which we set up the government under which we live, that government which was the admiration of the world until it suffered wrongs to grow up under it which have made many of our compatriots question the freedom of our institutions and preach revolution against them."

These words to me and I submit to you, are our call to high endeavor. As lawyers, we should again take our place in the forefront of what should be a nonpartisan effort made to work out our tremendous problems. For the profession is not as the public, it seems, generally believes, one of formalism and mere ritual. The services of the lawyer are not only necessary in the application of accepted processes of law as they relate to life and business, but as a public officer who should be in the foreground of all public endeavor. For the structure of modern society as we know it is one of law rather than custom, and there never was a time when the advice, the counsel and the wisdom of lawyers was needed more than in the busy days in which we live.

President Roosevelt has led the way. The New Deal has signalled the dawn of a new day and has become the symbol of a resurgent democracy.

Let us follow, not half-heartedly, critically if you will—but let our criticism be constructive—but let us follow, so that the bright light of our American democracy shall continue to cast its illuminating and penetrating beam through the darkness about us. (Applause).

THE CHAIR: I would like for just as many as possible to shake hands with our distinguished visitor. He has to leave immediately to catch his plane.

We wish to express our appreciation to him for his coming and his wonderful address.

MR. KEENAN: I shall never forget my short visit to Vicksburg. It will remain forever in my heart.

(Whereupon the session adjourned at 12:20 to reconvene at 1:30).

FRIDAY, JUNE 10th, 1:30 P. M.

PRESIDENT REILY (in the chair): The convention will please come to order.

MAJOR WELLS: I move that the nominees heretofore reported of the various districts be confirmed, and those nominees be elected as commissioners.

DEAN T. C. KIMBROUGH: Second the motion.

THE CHAIR: All in favor of the motion to confirm the nominees as commissioners, will say "aye"; opposed "no"; and the motion has carried; and these nominees for the position of commissioners are confirmed, as commissioners.

MAJOR WELLS: May I ask if you have appointed a committee to bring in the new budget?

THE CHAIR: I appointed committees for all matters, and that included the budget.

DEAN KIMBROUGH: I would ask that this body approve the allocation of $2,000.00 by the Commissioners to the Law Journal.

THE CHAIR: The other members of the Bar here might be interested in the reason for the change in the amount allocated to the Law Journal. The Commissioners voted to allow the Law Journal $2,000, and Mr. Coleman Branton will state the necessity for that.

MR. BRANTON: The reason for the increase from $1500 to $2000 is two fold: first, in order to put out a ten year index, showing every article, proceeding, etc. that has appeared in the first ten volumes of the Law Journal, and second, to add an additional issue to the Law Journal, which will deal entirely with Mississippi law. First, it will include a summary of all legislation that has occurred during the past year; second, it will deal with all Supreme Court decisions that have been handed down during the year. These will be divided into their respective topics, such as Constitutional Law, Agency, Partnership, etc., and each section will be given to

a lawyer of the state to make a detailed summary showing any reversal, etc., that the Supreme Court has made during that year.

It will also carry biographical and historical sketches of prominent Mississippi lawyers, both past and present.

This will be included in the additional $500 that has been allowed the Law Journal for the coming year.

MR. ELLIS: Will it include also matters of administrative rulings?

MR. BRANTON: Yes, thank you for the suggestion.

THE CHAIR: The Commissioners went into it thoroughly. Do I understand, Dean Kimbrough, that you have moved that the appropriation of $2,000 be approved by this Bar?

DEAN KIMBROUGH: Yes, I have so moved.

MR. BRUNINI: I second the motion.

THE CHAIR: All in favor of the motion to approve the appropriation of $2,000 to the Law Journal will say "aye"; opposed "no"; and the appropriation is approved.

THE CHAIR: At this stage, gentlemen, there should be a report of the Procedural Reform Committee. This report will be made by Judge Sydney Smith.

JUDGE SMITH (reading):

REPORT OF COMMITTEE ON PLEADING, PRACTICE AND PROCEDURE

To the Mississippi State Bar:

At the last meeting of this Association the following resolution was adopted:

"That the president of the Mississippi State Bar appoint a study committee to be composed of three members of the Mississippi Supreme Court, one of whom shall be the chief justice, three circuit court judges, two chancellors, and eight members in active practice, one from each congressional district, and one from the state-at-large, who shall be the Dean of the Mississippi Law School at the University, to formulate those proposals or changes in the practice, pleading, and procedure governing the several courts of this state, without direction as to whether or not it shall follow the proposed rules of the United States Supreme Court, to be sub-

mitted to the next annual meeting of the Mississippi State Bar, with the request that that committee prepare their proposal so that it be published in the Journal immediately preceding the next annual convention, there to be considered."

Pursuant thereto a committee was appointed consisting of Justices Sydney Smith, J. G. McGowen and George H. Ethridge; Judges Arthur Busby, J. F. Allen, John M. Kuykendall, R. E. Jackson, and T. P. Guyton; Dean T. C. Kimbrough; and attorneys Frank E. Everett, J. V. Gipson, R. M. Kelly, H. F. Case, E. B. Cooper, C. L. Garnett, Ross R. Barnett, and O. L. Kimbrough. This committee after electing the undersigned as chairman and Mrs. Alice Nevels as secretary thereof, appointed a sub-committee composed of Justice George H. Ethridge, chairman; Dean T. C. Kimbrough; Judges John M. Kuykendall and R. E. Jackson; and attorneys O. L. Kimbrough, Frank E. Everett, and Ellis B. Cooper, to investigate the question submitted by the above resolution and report its conclusion to the full committee. Thereafter, the sub-committee reported several recommendations, of which the following were adopted and are submitted for your consideration:

1. That in trials in justice of the peace and other courts, from which appeals lie to the circuit court, and are tried de novo, where a jury trial is had the jury need not be unanimous, but two-thirds thereof may agree upon a verdict in civil cases and in misdemeanors, and this shall be treated, for all purposes, as the verdict of the jury, judgment being entered thereon in the same way, and with the same effect, as if it were unanimous. This, it is thought, will save delay and expense. But this procedure should not be applied to courts where the jury verdict is final, and the appeal is upon the record.

2. That Section 568, Code of 1930, providing that variance shall not be material in any case where the attention of the court is not called thereto, should be repealed, as pleadings should be a part of the record, and the effect of the judgment should be *res adjudicata* only where there is evidence to sustain the action set out in the pleadings. The opposite party should be enabled to rely upon the action stated in the pleadings, and not be put to the hazard of oral proof to show what was involved in the action. He is entitled to rely upon the specific action set forth. Pleadings now can be amended when necessary to achieve the ends of justice at any time before rendition of the verdict, and this should remain the law. But a litigant should not be allowed to present one cause of action, and recover on evidence in another.

3. That Section 586, Code of 1930, be amended so as to permit the circuit judge, when after both sides have offered their instructions, he shall be of the opinion that applicable principles have not been requested, to call attention to such omissions in the absence of the jury, and suggest to counsel on both sides to draft such principles; and, upon their failing to do so, to draft them himself, and give them in charge to the jury in writing. But counsel on either side may except to the giving of such instructions and shall not be held to have waived their right to object by using them, as they shall be required to do, in other cases. The judge may modify, refuse or give such instructions prepared by counsel under his directions, and such modification shall be subject to exception, and no waiver shall be held applicable for the use of such instructions, as required. That the section be amended so as to read: "The judge in any case, civil or criminal, shall not sum up or comment on the testimony or charge the jury on the weight of the evidence, but at the request of either party he shall instruct the jury, in writing, upon the principles of law applicable to the cases. All instructions asked by either party must be in writing, and all alterations or modifications of instructions given by the court, or refused, shall be in writing, and those given must be taken out by the jury on its retirement. Whenever both sides have presented to the judge the instructions which each desires to have given in charge, and the judge shall be of the opinion that other or additional instructions sould be given, he shall, in the absence of the jury, call attention of counsel on each side to such principles as he thinks should be given in charge, and request them to prepare and present such instructions in writing, and if, after such request, counsel do not present suitable instructions on such propositions, the judge shall give on his own judgement such instructions in writing to the jury for their guidance; but either side may object or except to the giving of such instructions, or any of them, and shall not by using the instructions waive his or their objections, and such objections may be assigned for error on appeal. But the use of an instruction modified by the judge over objection, shall be held to be a waiver of the objection. All instructions shall be marked by the clerk before the jury retires, "given", "refused", or "modified", as the case may be, and being thereupon filed by the clerk become a part of the record, without a further bill of exceptions. All instructions for either side shall be read to the jury before arguments begin."

4. That Section 1272, Code of 1930, be so amended as to permit persons jointly indicted for the crimes of robbery, larceny, burglary or kidnapping to be tried jointly, in the discretion of the

judge, where the evidence for the state is against all of them. That said section be amended to read: "Any of several persons jointly indicted for a felony (except burglary, kidnapping, robbery or theft) may be tried separately on making application therefor before the order for a special venire in capital cases, and before arraignment in other cases. In cases of kidnapping, burglary, theft or robbery, where more than one defendant is charged, the evidence being the same against all of them, they shall be tried jointly; but where, for good reason shown, the trial judge is of the opinion that prejudice or bias existing as to some of them may affect others in a joint trial; or where one may have a special defense which might be prejudiced by a joint trial, or in cases where the state has evidence as to one or more which is inapplicable or prejudicial to others, a severance may be allowed."

In addition to the above suggestions the committee voted to submit the following:

That all motions for security for costs shall be filed and notice given thereof to the opposite party, or his attorney, at least three days before the first day of the term of court to which the same is sought to be heard, and in default thereof, the same shall not be entertained; and the filing of such motion shall not in any case be a sufficient appearance on the part of the defendant, but he shall proceed with his pleading as if no such motion had been filed.

Respectfully submitted,

SYDNEY SMITH, Chairman,
ALICE NEVELS, Secretary.

JUDGE SMITH (continuing): We made no recommendation of the rules to be approved to be used by the Supreme Court. There was such a division of opinion the report would be of no use to you. With that explanation that I made a moment ago that these specific recommendations, save one, were submitted by a sub-committee, of which Judge Ethridge is chairman, I am going to ask you, gentlemen, to receive the report and discharge the committee so that we will have no further duties to perform. That, I think, is the orderly way to do it, and when you adopt that motion, which I am sure you will, the report will be open to you for such consideration and disposition as you desire, and when you take it up now for consideraton, I am going to turn over the defense of the report and that part of it to Judge Ethridge, because he was chairman of the sub-committee, and is more familiar with the subject and more competent than I am.

I move that the report be received and the committee discharged.

THE CHAIR: Is there a second?

MR. BRADY: Second the motion.

THE CHAIR: All in favor of the motion to receive the report and discharge the committee, will say "aye"; opposed "no"; and the motion carried.

MAJOR WELLS: We have before us now about the most important matter that we are going to have at this session, and we have a hand-full. I don't know what a quorum is, but we have about thirty present—about one-tenth of those we had yesterday, and to consider this important matter at this time, with this hand-full of lawyers, I don't think we should go into it at this time. I think this should be set apart as the first order of business at the next meeting, and I so move at the next meeting of this Bar Association, after the opening preliminaries, that this be the first order of business. In defense of that I want to say further that it is going to require legislation if we adopt any one of these, and to go before the legislature, with thirty people here out of the whole Bar of the State of Mississippi undertaking the support of it, I don't believe they will pay much attention. There is not going to be a session of the legislature next year, except the special session, and the governor is not going to submit it at a special session.

MR. BRADY: I would like to see this re-printed in the Law Journal. I read it but there seem to be some changes. I have studied it when it came out in the Law Journal. It would take two days to study this. More than likely it ought to be adopted but how can any human being vote intelligently without having a copy before them? It would take me two days to study it, and I have read and considered the matter as published.

MR. JULIAN ALEXANDER: I am inclined to believe that my views in this matter are at variance with the majority of those here this afternoon. I have been attending Bar Associations for twenty-five years. I early got the impression that the Bar Association developed a great many splendid and constructive ideas and suggestions as meetings came and went. I often wondered what became of those, and as a young lawyer I was inclined to wonder about the efficacy of this body in carrying these ideas out. With you I have observed this tendency that the most important matters, the most constructive suggestions have always been presented to those interested and loyal minorities who endured unto the end.

I cannot help but feel that it is not unjust to charge those of the Association who, knowing this report was to be made, conscious of its importance, have deliberately walked out on the meeting. I say, I see no injustice in charging them with a sufficient measure of default to estop them from blocking these suggestions at subsequent meetings.

My remarks are necessarily general, but I do have this impression at this time that this sort of thing is the most definite and constructive service that this body can undertake, and if at this time the Bar Association in meeting here, hears and receives this report, I think it should act upon it and let such influence as may attend its future course.

So, I am not in accord with the view that, in deference to those who have not shown their interest here, we should postpone this thing for another twelve months, thus perpetuating a custom which has attended all our committee reports for the past twenty-five years.

I do have in mind a very valuable report submitted by Mr. Brunini, and printed in the Law Journal a year or a year and a half ago. That committee undertook suggestions of procedure. I do not know what has ever come of that except the reading and postponing. I am suggesting here, under the head of this motion, that we at least take some definite step now to the end that we might start putting into force the ideas which have been expressed here. To me they are simple, patent and practical advantages.

I have in mind a suggestion which I would be inclined to hesitate advocating here because of the well-founded suspicion that it might be heard, and then buried through our delay procedure.

So I, for one, see no practical advantage in postponing for twelve months the entire consideration of this matter by those delegated by the majority who have left, expressing for the Bar Association the attitude of those who are now in session and who for the moment constitute the Association.

JUDGE GEO. H. ETHRIDGE: I want to make some observation which may not be pertinent to the motion before the house. It is pertinent to the recommendations which have been made by the committee.

The committee was appointed and had a preliminary meeting, with a view to discussing whether any elaborate change in procedure should be made at this time. No definite conclusion was

made, but it seemed to be the view of many and perhaps most in attendance, that recommendations ought to be such as were thought to be emergent and necessary, without any effort to over-turn or to reconstruct the entire procedure that would be involved in the inquiry or might be involved in it.

A sub-committee was appointed, as stated by the chief justice, and a letter sent out to every member of the bar of the state, asking for suggestions as to any proposed change that any individual might see proper to make.

A good many suggestions were made, but still they were not so numerous as the sub-committee, or at least as I, thought we would get from that proposition. After getting the propositions from the bar at large, I sent out a letter then to the judges and chancellors who had special experience in this line for suggestions, and we had some from some of the judges. After consideration the committee was called together, and the sub-committee recommended some propositions that are not embodied in this report, which were rejected by the full committee and which none of us saw proper to bring before the convention, presenting only those that have been read to you this afternoon.

The propositions made ought to be studied by the bar. They were printed in the February issue of the Law Journal. The resolution at the last session of the State Bar provided that they should be so published. While they are not so numerous as to attract a great deal of attention, yet they present ideas that in my opinion would promote the administration of justice. The action was to be taken on it at this time. I have no desire to take any action that would be contrary to the judgment of the bar, but most of the propositions that have been passed upon by the Association as such have been by the minority of the Bar Association.

If the questions are not studied there will be no advantage derived from them. There will be nothing at the next convention that would enliven the interest in the subject unless they are reprinted and re-considered.

I think it might be some advantage in briefly stating what might result with the adoption of these, should they be adopted.

The first proposition is with reference to jury trials in inferior courts where appeals are carried to the circuit court and there tried anew before a jury in the circuit court. That suggestion came from three or four lawyers of distinction. In its verbage the bar generally favored as applying to the circuit court, as well

as in misdemeanors. That, however, would take a constitutional amendment to accomplish, but to deal with juries which are not a matter strictly of right in justice of the peace and similar inferior courts—there would be no legal or constitutional necessity for unanimous verdict unless the bar desired that.

It was my experience when at the bar practicing in justice of the peace courts, often we would have hung juries; juries would fail to agree; involving the necessity of lawyers making two or three or four trips to get a jury verdict because they would lack unanimity. I remember in one case I had to make four trips to the outer confines of my county on a small matter where the fee, which was a good fee for the amount involved, was $20.00, and it took one and a half days each time to go there and back to try the case.

I remember another instance—I was not counsel in—in another county in my student days, where there was a lawsuit over a cow, which resulted in six hung juries, a fist fight and a lot of neighborhood trouble and disagreement. The costs ran up to more than $700 on account of hung juries. It occurred to me that if this could be adopted, the lawyer could try his case; and if he was not satisfied, he could appeal and get his constitutional jury.

In reference to the statute on variance, I notice very often in cases that come before us the statute is lost sight of, and has been lost sight of in some instances and applied in others. You state a case in your declaration or in your bill; you go to trial and present in the evidence facts that make a case; and judgment is rendered on the facts in accordance with the testimony. Of course, if the party had applied for an amendment, he could have made the amendment any time before verdict, under our law. But where the attention of the judges is not called to it and no action requested at his hands, the statute provides that it shall not be reversed on that account. Yet we have done that by counsel and ourselves sometimes overlooking the statute.

Pleadings and judgment are intended, in legal conceptions, to present a record of the case where it could be used defensively, should any other litigation arise over it. So the statute does not serve much of a good purpose. The court avoids that by saying where the evidence varied from either the bill or the declaration, the opposite party could show by evidence *aliundi* what the transaction was. Of course, you know the difficulty that would attend that.

The statute now with reference to trying certain criminals together. We have today systems of organized crime. They are committed by numerous parties acting in concert. Under the law as it stands, where the crime is a felony, they have the right to be tried separately and you cannot dispose of very many cases at a term. As to the crimes which are most commonly so perpetrated, like kidnapping, robbery, and theft, they can, in the discretion of the judge, all be tried together, as they could be in a misdemeanor. That would enable the court to deal with that character of crime which is very difficult, under the present system of separate trials, to be had. But the amendment would safeguard that because the evidence of the state would the same as to those who are tried jointly, and that would, in my judgment, accomplish a good deal.

Now, with reference to instructions of the court. I believe in instructions being in writing and the judge not being permitted to make any comment or make an argument on the weight of the testimony. But under the statute as it now exists, the judge cannot make any instructions of his own motion, and counsel may request or not request an instruction at his option. If he does not request it on either side, the judge is powerless to give the jury the law with reference to it. This safeguards the people by giving the judge the right to call counsel's attention to the omission of the proper principle of law applicable to the case and to request that they prepare instructions along that line. Should they refuse to do it or fail, then the judge may in writing instruct the jury on his own motion upon the applicable law. That prevents any possibility of the case being submitted to the jury without essential elements controlling the case being left out. It certainly could not do any harm, it seems to me. It provides that where the judge gives certain instructions that have not been requested by counsel, counsel may then except to the instruction, but he would have to use it. While he would have to use it, he could take exception to the legal sufficiency and raise any question on the trial in the supreme court on appeal. Under the present law, if a lawyer requests an instruction and the judge modifies it and he refuses to use it, he may assign the modification for error, but if he does use it, he cannot. As instructions are now presented, we all know sometimes modification is necessary to present the full law. Sometimes it so happens that a case comes up where there was nothing more than a formal burden of proof or some similar instruction. Counsel presents it in his argument but the law ought to be given to the jury as it applies to the case and all of the controversial law of the case settled.

Now, it seems to me that all of these propositions would improve the administration of justice under the law. It certainly could not harm any righteous case to have these principles applied to it, and that would expedite the speedy settlement of litigation in one lawsuit. Sometimes a case comes up where the jury has not had ample instructions—an important proposition. Of course, the jury take the instructions, being the law given them by the trial judge, and that is what they ought to have. And where the argument is made it ought to be made on the law, as it is in such form that either party can test it if it should be wrong.

I am not dictating to you what course you should take, but if you do postpone, I think you ought to study it and reprint it shortly before your next meeting; or it ought to be rejected or adopted now. It ought to be disposed of. I have no interest in the matter except to promote law and justice. I have no disposition to shape the law and hesitated to take this assignment because ordinarily judges do not participate in law-making, but this was on the request of the Bar Association itself and the duties of this committee. (Applause).

DEAN KIMBROUGH: There is considerable in what has been said here about taking up this matter at this time, especially the comments made by Judge Alexander. I do not think the majority of the bar ought to complain if they go away and leave these matters to be discussed and dealt with by a very small minority, but Judge Alexander says they cannot plead estoppel if they go away and the minority here deal with the question. But the trouble is they will complain, and you cannot estop—they won't be estopped, and the only way that you can get this thing worked out is to have a complete Bar Association deal with it, and go before the legislature with the full force of the bar behind it. Then you can put it over. Otherwise, you will have trouble getting it through the legislature. I doubt very much if it would be worth anything to simply have this published in the Law Journal. My observation is that about one-tenth of the lawyers read the Law Journal; they do not consider articles in it.

I think this ought to be done: let these suggestions be reprinted with the comments just as they have been made here by the Justices of the Supreme Court, in the Law Journal, with his comments on it. Then you will find every lawyer in the state will read it; and when we come back here, he will have his mind made up as to what he thinks ought to be done here.

THE CHAIR: There is a motion before the house. Of course, we will have to talk to that motion. Major Wells will you take the chair? (Major Wells in the chair).

MR. REILY: Gentlemen, right or wrong, I am going to give you the thoughts that I have concerning these amendments.

The amendment in regard to requiring the trial of a case in justice court is doubtful but probably it may be justified on the theory that the man can appeal his case to the circuit court and get a trial by twelve men in circuit court. I do not practice criminal law; I have not tried but one criminal case in many years, but there is no trouble in convicting a guilty man in Mississippi. Regardless of what you say there are more innocent men convicted in Mississippi than there are guilty men who are acquitted. A district attorney who is honest and fearless soon becomes identified with law enforcement and with right, and he has the confidence and sympathy of the God-fearing, righteous people in his community. If he will do his duty he can convict guilty men. The crime in this country is due largely to your city officials. If the city officials in the city of Vicksburg and Meridian and Jackson and other cities throughout this country will enforce the laws and all of the laws, and break up the dives where thieves and criminals hang out, they will have no place to hang out: they will be as conspicuous as a white elephant on the streets, and we can enforce the law. The trouble is you have got politics in your municipalities that is interfering with the enforcement of criminal law in the state.

I have the greatest deference for these gentlemen who have drafted these resolutions. If I were on the floor I would offer objection to the amendment, but after all a man can appeal his case and get a jury of twelve men.

For a lawyer to state his case in his declaration is eminently correct. It is a species of trickery for me to come into court and charge you with burglary for this reason and then prove it for some other reason. No lawyer requires that advantage, and none but a lawyer should be permitted to practice law. That is a wise provision and I am whole-heartedly in favor of it.

The next amendment, as I recall, was with reference to the instructions by the judge. You are treading on dangerous ground again. Every man ought to have the right ordinarily to present his case and then contend for the ground upon which, in his judgment, he should recover. That is a doubtful question. Yet where it is clear that there is some phase of the law that the judge has

not instructed on, it occurs to me, in order that full justice may be done, that would be permitted, especially in view of the fact that the amendment requires the judge first to bring to the attention of opposing counsel the principle of law involved, and give opposing counsel a chance to get instructions on it. But I am going to pause here just a moment to say that not all of the wisdom in Mississippi is on the bench. You know that. I have seen more cases than one when if I had gotten every instruction the trial judge thought I ought to have gotten, my judgment would not have been worth a fiddler's damn, if you will excuse my English. All of the wisdom is not on the bench. Judges are honest. I don't say that because judges are here. I say that because I don't know a man in Mississippi that I practice before that I do not believe but wants cases tried fairly and wants to do his duty; but not all judges know the law. It is not popular to say that but I could name judges in Mississippi that try only a certain line of cases. I appeared in south Mississippi not long ago to try a case and the judge would not let me stand up at all. I could not read an instruction to him; I could not submit an authority to him. He was an honest man, I am sure, but he had no experience in the particular case that was being tried. He did not know the law. When you tell me that a lawyer who for thirty-five or forty years devotes his life to one branch of the law, and especially when he represents the poor and knows if he makes a mistake his verdict is worthless —you tell me that that man does not know what instructions ought to be gotten in a case better than a man who has many cases to try—I differ with you about that. It is a doubtful question but I say this suggestion that they have is that opposing counsel's attention is first called to it and he is given a chance to get an instruction if he desires it; if he does not and the judge does it erroneously, he is protected. However, I am pointing out to you what to an humble man appears to be dangerous practice, that we ought to give some thought to.

The next question I am 180% against: that is, in regard to trying everybody charged with burglary and theft together. I never defended a man charged with burglary; I used to prosecute them as district-attorney. I have not defended a man for stealing for twenty years. I don't handle criminal business, but, gentlemen, the hope of this country is to keep our court houses so that no injustice is going to be done in that court house. Many a man may become identified or thrown with other men who may be guilty of some crime, and if you are going to indict and try them all together, a shrewd man, a district-attorney, will wind the sins

of the one about the neck of the other until a jury, indignant at the crime, will bring in a verdict against all of them. Yes, I say men are too inclined to become aroused. They are like some preachers—there are a bunch of preachers in Mississippi who have lost their power to do good because they have fought sin so long they hate the sinner. God bless you, you cannot do anything with the sinner without loving him. We see so much of crime, we see so much of this kidnapping and other crimes going on throughout the world that it has made us callous and blinded us. Many a boy may be out with criminals or playing around a pool room; several may be arrested, they are all together, and it may be proved that they have been together throughout the day, and some one boy in the crowd may have done no more than make a mistake in the company he keeps; yet he is arrested with that crowd, and I say we had better let a hundred men go free than convict one innocent man. As a man who does not practice criminal law but who over a third of a century has been in court houses observing the doings there, I submit to you that we should think carefully of this amendment. Those are my honest convictions. I thank you. (Applause).

(Mr. Reily in the chair).

MR. BRADY: If this matter were brought in issue now, I could not vote either way. I agree with everything that has been said, but I think Dean Kimbrough has struck the nail on the head. I think this is what we ought to do. I cannot disagree with what Judge Ethridge has said. I cannot disagree with what Judge Smith has said. I have not studied it, and I think Dean Kimbrough is right.

MR. CRAWLEY: The motion is to permit these recommendations to lay over until the next meeting of this Bar and that motion was seconded. The idea is to let it lay over until the next meeting of the Bar: that is what we are to vote on at this time.

DEAN KIMBROUGH: I would like to make a motion to amend Major Wells motion so as to incorporate my suggestion that we reprint these proposed changes with comments of Judge Ethridge on each one, and then bring it up on the first day.

MAJOR WELLS: I accept the amendment.

MR. CRAWLEY: Ladies and gentlemen, the only thing I desire to say is this, that at every meeting of this bar at some stage or another during its proceedings, a question with reference to procedural reform has been discussed.

So far as each particular recommendation goes, this matter has not been discussed until this time. It is vain and useless as I see it, to let such a momentous question, one that strikes at the very foundation of the practice of law in the State of Mississippi, be passed upon now finally by this hand full of lawyers who are loyal enough to remain until this session concludes. I want to say, if the president please, if it is necessary that these changes in our statutory law be adopted, let it be after a full discussion before a full meeting of this eminent bar, such as we had here on yesterday afternoon. Let's don't take a pot shot at it. Now, then, for that reason, I want to say something: that so far as I am individually concerned, I don't want any circuit judge that ever sat on any circuit bench in the State of Mississippi to write my instructions for me, and I don't want him to teach me how to practice law; and I am opposed to a circuit judge undertaking to usurp that authority in any case where I have the honor to appear and where the interests of my client are involved.

Let's let this matter be published in the Journal with the comments of those who have appeared here today, and then when the Bar Association meets at its next annual meeting, when we have a full attendance, as we will have on the first day, let that matter be discussed, and then, regardless of what the decision may be, may it please the president, as a loyal member of the bar of Mississippi, as a humble practitioner before the court, I yield in deference to their opinion. (Applause).

MR. GUICE: I think I am in order. I move the previous question.

THE CHAIR: A motion has been made and seconded, and an amendment made and seconded, and the original maker accepted the amendment, and the motion as amended is the question before the house.

MR. GUICE: I move the previous question.

THE CHAIR: If the previous question is ordered, each side would have five minutes for discussion.

MR. BRANDON: Second the motion.

THE CHAIR: You will vote on whether or not the previous questions shall be ordered. All in favor of the motion will say "aye"; opposed "no"; and the motion is carried, and the previous question is ordered. Each side will have five minutes for discussion.

MR. GERARD BRANDON: I am opposed to the motion to vote at this time to continue the matter to the next meeting. I wish to state that I am heartily in accord with the remarks made by Judge Alexander as to deferring action upon the recommendations that have been made by this committee. Since the formation of the integrated bar, there has been agitated the matter of considering the advisability of reforms in our procedure. Among the members of the committee themselves there has not been unanimity of thought as to what reforms are needed, but the members have felt that there should be some discussion of the various problems that have been presented and discussed, which should result in some form of vote or determined by this body. My observation during the past six years has been that whereas attendance upon the annual meetings of the Mississippi State Bar is most enjoyable, yet the matters of direct concern to the bulk of the members of our bar attending has been on two questions: first, who will be the next succeeding president; and, where we will meet. When those questions have been determined, the majority of those attending our Bar Association meetings have lost all interest in further proceedings, and I presume that is the reason the program committee arranged to have the election of officers and selection of place of meeting on the first day of the session. Those who were interested in just those two questions have come and gone, and those who are interested in problems confronting the bar could have a day untrammeled by politics, so that we might consider questions of vital importance to the bar. This, as I understand it, Mr. President, is the day that has been set aside for that. We say those who are interested in such matters should be present, and I can see no reason, no good, no necessity for deferring to a later day the discussion, and action on this matter.

MR. GUICE: I don't know exactly what they are talking about, but I do know this: that those who have remained are the older members of the bar: we are going soon to pass out of the picture, and these changes of which we are now speaking will affect those who still remain. Probably some of the younger members of the bar did not remain because they did not have the funds with which to remain. They were here on the first day and probably that was all the time they could give to it, and I think those who make the program, those who arrange the program, should have these matters come up on the first day, not the last. There are about ten per cent of the membership now in attendance, and about one per cent of the entire bar. We have no right to vote on a course of action which might seem to bind them, but if we take

unto ourselves that right the same thing will happen that happened at Jackson, where a vote was taken on the Roosevelt plan in regard to the membership on the Supreme Court, and the vote stood 120 against it and 160 for. Later a newspaper at Greenville took a poll of the bar of the state, and there were four to one against the plan. If we take action here today, it will not be a representative vote, and I am against it.

MR. KELLY: I think the experience today will be helpful to us. After many years of experience, I find that regardless of what the interest is, after the election is over, many of the bar leave. For that reason, after this program was suggested, I went to Jackson, I got Mr. Barnett and Mr. Fred Lotterhos and as many as I could together with the idea of changing the program and have the election of officers the last day. We practically had decided to do that until our attention was called to the resolution of the Board of Commissioners. That was fixed by resolution and we could not change it. The very thing that I expected to happen has happened, and regardless of what we say, that is going to happen every time. The important things should be fixed at a time when we have a full attendance or a reasonably fair attendance, but if these important things are set for a time after the election, we will find ourselves in the same position we are today.

MR. GRAHAM: I understand the most important part of Mr. Wells' motion was that this be made the first order of business at the next meeting, and then we will have a crowd there. I think that will take care of the situation.

JUDGE EVERETT: Possibly I should not have anything to say, but I always like to speak out in meeting so everybody knows where I stand, whether for or against. This committee was appointed by the Bar. There has been a committee appointed by every president of the Bar since the Act of 1932 to study this question. Not a single report has ever been made until you appointed a committee, and that committee did get together on several occasions. These matters were threshed out in the committee, and the secretary then sent out to the various lawyers over the state a letter asking for suggestions. A few came in, very few, because nobody paid any attention to it.

The committee had another meeting and reached this conclusion and submitted the report that has been submitted to the bar. It was published in the Law Journal.

When the committee that arranged this program met, it fixed the time for the discussion of this matter before the Bar Associa-

tion and put it on the program. A copy of that program was sent to every member of the bar, as I understand it.

MR. GUICE: Point of order; the other side have taken up seven minutes when they should have five.

THE CHAIR: Very well.

MR. EVERETT: If the members of the bar have been advised of this matter and if only these gentlemen are sufficiently interested in it to stay here and take a part in it and vote upon, and that's the order, why pass it over and bring it up at another meeting of the bar; because if we adopt that policy we will never do anything except bring it up and pass it over until another meeting. I say the thing to do is to get rid of it at this time.

THE CHAIR: The motion is whether or not this matter shall lie over until the next meeting of the Bar Association, when it shall be taken up on the first day of the meeting and be among the first things to be considered, or whether it shall be dealt with at this time.

MAJOR WELLS: An amendment was accepted to the effect that the report shall be reprinted with copy of the remarks of Judge Ethridge explaining it, in the issue of the Mississippi Bar Law Journal immediately preceding our next meeting.

THE CHAIR: All in favor of the motion as amended will say "aye"; opposed "no"; the "ayes" have it.

MR. JACOBSON: That is set for the first day of the next meeting?

THE CHAIR: It is.

Permit me to read to you a communication from a man who has been an honor to the profession for many years. (reading)

"I shall sustain a great loss in not being able to attend the Association at Vicksburg on the 9th and 10th. Conflicting engagements preclude me. I trust it will be the most impressive meeting since the organization of the State Bar Association. (signed) J. H. Price."

And permit me to read a communication from Mr. Ben H. McFarland, Chairman of the Grievance Committee: (reading)

To the Mississippi State Bar:

I am glad to report that during the past year only 12 complaints have been filed with me, and all of them have been satis-

factorily adjusted. In addition to these 12 complaints, one complaint that was carried over from last year has been satisfactorily adjusted. I received 15 or 16 letters making complaints against attorneys, but when I answered them stating that our rules of procedure required the filing of an affidavit setting out the facts in each complaint before any action could be taken, I either received a letter in reply stating that the complaint had been adjusted or heard nothing further about the matter complained of, which indicated that the complaint had been settled.

Practically all of the complaints involved minor matters, and were caused by carelessness or oversight, and as soon as the matter was brought to the attention of the attorneys in a proper way, they readily cooperated with me in getting the complaint satisfactorily settled.

As stated above, I now have no complaints on file that have not been adjusted.

Respectfully submitted,

BEN H. McFARLAND
Complaint Commissioner
Mississippi State Bar.

THE CHAIR (continuing): If you will pardon just this one observation you will note that as the years have gone by—and I say this because some people say the Mississippi Bar has not accomplished anything—but as the years have gone by you will find that these complaints and causes for complaint are diminishing all the time; because Mr. McFarland, during recent years, to my knowledge has been the Complaint Commissioner, and he has handled complaints fairly but vigorously, and the result is that lawyers are discharging their duties.

MR. GUICE: I move that the report of Mr. McFarland be received and that he be commended for his courage. I also move that the secretary of the Association write him a letter of thanks, thanking him for his efforts in behalf of the bar.

MAJOR WELLS: I second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no"; and the motion is carried.

Various questions have been considered by the commissioners throughout the year; matters we thought vital to the bar; and the results will be reported to you by Mr. Everett G. Truly.

MR. TRULY: Mr. President and gentlemen of the bar; you will be glad to hear, at this late hour, that I am not going to inflict on you any lengthy report. I asked Mr. Brunini to make this report, but the memorandum was made in my handwriting and nobody necessarily would undertake to do so.

The commissioners held several meetings during the year. One of the things taken up was a report from a committee of which Mr. Brandon was chairman, with reference to the election of commissioners. That report was approved by the commissioners, so far as they had authority to act on the matter, and it will be published in the next Law Journal. It was reported that certain of the members were out electioneering for the job of commissioner. That practice is being condemned in this report and it will appear in the next Law Journal.

The next thing is the question of trying to encourage the organization of judicial district bar associations throughout the state. That matter is to be covered in the report by Mr. Lotterhos. We thought it very vital to the growth of the Association to get the idea over to the lawyers who do not come to the meetings of the bar, and we believe it does not belong to the few who come and try to attend the meeting, but belongs to all of us. The only way, it seems, to put the idea over and get them interested is to get them interested in their local associations. The next step to the State Bar is district meetings, and that is an aim of the bar for the next year.

Another matter, and one over which we have no authority but which we trust the bar will pray over—I believe we have some good Presbyterians among us—we have ascertained that the law professors at the University of Mississippi are the most underpaid law professors in the United States. We think our law professors are just as good as the law professors anywhere, and we are going to recommend to the Association that the dean's salary be increased from $3600 to $4000. In some of the large schools they receive eight, ten and twelve thousand dollars. We know we cannot reach that, but $4,000 is certainly little enough to give to a dean who gives the department his entire time. It is a full-time job. They pay for their house, rent, fuel and lights, and the $300 is gross. That's all there is to it—$3600 with which to pay all these things out of their own pockets. It should be taken care of, and, as I say, we hope the bar will pray over it—work and pray.

We have a communication here from Miss Mamie Owen, Assistant State Librarian, stating that they are trying to secure

$10,000 from the State Building Commission from the $1,000,000 appropriation to be used for the purpose of re-binding 7,142 law books in the State Library. I think it is quite commendable that we have 7,142 law books being used in the State Library, and the fact that they need re-binding indicates that they have been used. The Commissioners thought that book binding was right down the W. P. A. alley; that possibly we could get it done that way, for nothing. At any rate, if the building commission has got a million dollars, I see no reason why part of it could not be used in this way.

The final matter the Bar Commissioners passed on—and I am sorry there are no more of the younger members present—was increasing the appropriation to the Law Journal from $1500 to $2000.

THE CHAIR: That has been passed on.

MR. TRULY: I know they will appreciate it.

We did a lot of talking and passed a lot of resolutions and wrote a lot of minutes, and I won't take up any more of your time.

MR. BRAMLETTE: I move that the report be adopted with the grateful appreciation of this Bar.

MR. KELLY: Second the motion.

MR. BRAMLETTE: I would like to say this; that this Association was virtually on the rocks until the new law creating the state bar providing for state commissioners was passed, and this Bar Act has brought new life into the bar of this state, formerly known as the State Bar Association. And I attribute it to no other reason than the provision for the commissioners from the seventeen districts. I wish to state that I think they have done a splendid work for the State of Mississippi, and in support of this motion I make that observation.

MAJOR WELLS: The Presbyterian preacher believes in praying and working, but I am a Presbyterian elder, and I believe in work and in praying. I have gotten an advance in the salary of the professors and dean of the law school last year. I am ashamed to tell you what they were getting before that. It was just a miserable shame. I got an increase this year to $3600 for the dean, and professor, $3000. I am telling you that so that you will follow it up. The Board acts on the recommendation of the Chancellor of the University with reference to salaries, and when we went to have the meeting of the Board to act on the recommendation of the Chancellor with reference to salaries, I tried to get the president to go with me and appear before the board to

undertake to have these salaries advanced. He was sick and unable to go and I appeared before the Board and got the increase, the dean from $3000 to $3600 and the full professor from $2500 to $3000. I think that is only a beginning. I think this Bar Association ought to do something about it. I think a committee ought to be appointed from this Bar Association to wait on the Chancellor of the University when he goes to make out his budget for the new year. He cannot do it now, it is fixed. We ought to wait on him when he makes the new budget, and forceably represent to him the absolute necessity for an increase in these salaries. I don't believe we can get it any other way. We have such a low scale of salaries that we did well to get it from $3000 to $3600—that was above the average run of other deans and full professors in this state; yet it is a fact that in other institutions in Alabama, Tennessee, Louisiana and Arkansas they are paying largely greater salaries, not only in law schools but in other lines. We will have to use the tactics that the doctors did; that is, they would not recognize the graduates of the medical schools unless they increased the salaries of their professors, and they did; from $2500 up to $5,000. We are never going to get it unless we fight for it.

I move, therefore, that our new president appoint a committee of three to wait on the Chancellor of the University to present to him facts and figures with reference to salaries paid other deans and full professors, and urge him when he makes his new budget, that he increase them to somewhere in proportion to what they get in other states. I think we will have to fight if we are going to get anywhere.

MR. BRAMLETTE: I think that should be in the form an amendment to the motion which I made, which I accept.

GENERAL J. N. FLOWERS: Couldn't we get the salary increase allowed now?

MAJOR WELLS: No. Every dollar they have has been allocated to the various departments. If he made the increase now he would have to take it away from one to pay it to another.

GENERAL FLOWERS: The money has already been appropriated?

MAJOR WELLS: The budgets have already been made for this year and next; yes.

GENERAL FLOWERS: How could we get another budget?

MAJOR WELLS: I don't think we can do anything about it at this time, but we can when the new budget is made.

THE CHAIR: You have heard the motion and the amendment which was accepted. What will you do with it? All in favor of the motion as amended will say "aye"; opposed "no"; and the motion as amended is carried, and the report will be filed.

I believe that is all the reports we have at this time. We are now going to hear from Mr. David Crawley, former president of this Association, whose name is upon the program. (Applause). I have great pleasure in presenting Mr. Crawley.

MR. CRAWLEY: Ladies and Gentlemen of the State Bar Association: Within the last few days the Secretary of our State Bar informed me that the program for our annual meeting had not been completed by reason of the fact that a member of our profession had not accepted the task of discussing the subject which has been assigned to me, and requested the speaker to appear on this occasion in the same capacity that a substitute is called from the bench to take part in any game of athletics. It is with great deference and with modesty that I approach the subject assigned to me, namely: "The Obligations and Duties of the Legal Profession." This subject is not only one of great moment to our profession but is one of vital significance to every citizen. We realize that in the proper enactment of just legislation, in the proper administration of justice, rests the safety and security of our nation. It is to be hoped that I do not transcend the bounds of propriety when I venture to assert that upon the legal profession rests the responsibility of the enactment of the laws by which we are governed and upon our fraternity rests the responsibility of the just and impartial interpretation of the law in which the rights of litigants are involved; and likewise upon the members of our noble profession rests the obligation and duty of presenting the facts and the law to the court in any cause where the life, the liberty or the property of any litigant is in question.

When we calmly analyze the position which we occupy as attorneys and counsellors at law, the fact is brought home to each of us that our client, in the privacy of our office, bares his entire life; he reveals his business secrets; he discusses his family relationships and reveals in its bare and stark nakedness the gaunt and ghastly skeleton concealed in his family closet. The widow in her dire extremity seeks our counsel and advice as to the investment, oft' times, of the meagre funds left to her on the death of her loved one. Minors, bereaved by the loss of their mother and their father, without experience or business training, cast adrift on the sea of uncertainty in the business world, depend upon our profession for advice and for protection. So, after all, when we

realize the grave and responsible position which we occupy as an officer of the court, the duty and obligations that rest upon us in the discharge of our duty to our clientele cannot be overestimated. The Ethics of our profession is a proper subject matter for discussion at every meeting of the Bar. The rules of moral and professional conduct that serve as a light to guide the pathway of the attorney and counsellor at law not only should be frequently discussed by members of our profession, scrupulously observed by them, but as new and changing conditions arise that necessitate the departure from the usages and customs of the past, not only reconcile ourselves to such conditions, but as true and patriotic citizens conform to the requirements of the existing conditions. There are certain principles of moral and professional conduct that are as unchanging as the eternal principles of truth. A noted playwright in one of his celebrated plays gave expression to this fact when he placed in the mouth of one of his fictious characters these memorable words:

> "To thine own self be true, and it must follow,
> as the night the day, thou cans't not then be
> false to any man".

It is only by the observance of the strict principles of integrity and honor that an attorney and counsellor at law attains distinction in his profession. It is only when a member of our profession assidiously cultivates truth, simplicity and candor that they possess the cardinal virtues of a lawyer. A reward, political or monetary, however great, will not cause any member of our profession, whose heart and whose conscience are so attuned, to depart from the course indicated by the above principles.

After all is said and done, the lawyer is the keeper of his conscience. He reads the chart and compass that marks the course of his own professional conduct, and he, and he alone, is responsible for such success as he may attain; or for the fact that he has fallen into disrepute; or that he is regarded as disreputable by members of his profession and accepted by the public as an outstanding example of the moral and professional leper who has been admitted to the bar.

The responsibility, legal and moral, of the lawyer arises from his obligations to the court, to his brother lawyers and to his client. The oath of office required of every applicant for admission to the bar administered to those who are admitted and the duties of attorneys prescribed by the statutes of Mississippi may be summed up in these few words: "Fidelity to the Court; fidelity to the client;

fidelity to the claims of truth and honor". The legal profession represents the majesty of our nation—a grand and glorious nation —a nation of liberty; a nation where liberty, equality and fraternity of all mankind is recognized and designed to be preserved. The rights and privileges of the strong and the weak, the rich and the poor, the high and the low, the brilliant and those of humble intellect, thank God, under our system of government stand on an equal footing in the court room and may it be the constant aim, and the constant purpose and the constant effort of our profession to see that the scales of justice are balanced by a just and righteous hand, uninfluenced by bias, prejudice and filthy lucre.

Zeal for our client's cause should never, under any circumstances, lead us or cause us to be disrespectful to the court, the opposing attorney, or his client. Even in the heat of contest the Ethics of our profession require that we neither practice deceit, imposition or evasion, garble the testimony, or misquote the law.

In order to be a successful lawyer, it is imperative that one enjoy the confidence and esteem of his associates. To do this, he must preserve, inviolate, every promise or agreement made with them, whether reduced to writing or made orally. A sharp practitioner may gain some temporary advantage, as we older members of the Bar have reason to know, but at such a sacrifice! The loss of the confidence and respect of his brethren. To the young members of our profession, and not to them alone however, would I say that the confidence and respect of his brethren in its final analysis will contribute to his success as a practitioner, for in its wake will follow as a natural sequence that he will soon enjoy the confidence and respect of the men of his community. Even though some of the younger members of our profession may grow restless and impatient on account of the restraint of our rigid code of Ethics, it is well for them to remember one of the "Sonnets on Fame", written by the poet Keats under the caption entitled "You cannot Eat Your Cake and Have it Too", and as follows:

"How fevered is the man, who cannot look
Upon his moral days with temperate blood,
Who vexes all the leaves of his life's book,
And robs his fair name of its maidenhood;
It is as if the rose should pluck herself,
Or the ripe plum finger its misty bloom,
As if a Naiad, like a meddling elf,
Should darken her pure grot with muddy gloom.

But the rose leaves herself upon the brier,
For winds to kiss and grateful bees to feed,
And the ripe plum still wears its dim attire,
The undisturbed lake has crystal space,
Why then should man, teasing the world for grace,
Spoil his salvation for a fierce miscreed?"

At the expense of being tedious, I could discuss with you those acts on the part of a lawyer which are not considered permissible, but it is my present purpose to confine myself solely to a discussion of the matter that has within recent years been brought so often to the attention of the members of the Bar of Mississippi. I have reference to the so termed "ambulance chaser". I hold no brief for an "ambulance chaser" for the simple reason that I consider it wholly reprehensible for any lawyer to solicit employment in any cause. It matters not whether circumstances arise out of physical injury, an injury to one's reputation, or an injury to one's property. It is equally to be condemned by our profession where a lawyer seeks out the injured party and solicits employment in the hope of remunerative reward out of the fruits resulting from subsequent litigation. So far as the speaker is personally concerned, there is no distinction to be drawn between the ambulance chaser who works in the open and the boot-licker who assidiously cultivates, with an ulterior purpose, those who are socially and financially prominent in the hope of ultimately obtaining remunerative employment from such source; or the hypocrite, who with sanctimonious air and demeanor undertakes to impress the community with the fact that his moral life is above reproach, when as a matter of fact, his conscience and his heart are as black as the shades of hades. If I recall one certain incident that is written in the Book of Books, there were certain men who were characterized therein as Pharisees who were accustomed to stand erect in the temple where they might be observed, but not in an attitude of prayer to the King of Kings, and say: "Lord, I thank Thee that I am not as other men". After all is said, however, for those within our profession and those without, who criticize the conduct of any lawyer on the account of his professional activities, it might be well to search his own heart and his own conscience and ascertain whether or not within his own eye a beam is embedded, and if he then find himself free of fault, I would respectfully recommend that he prefer charges before the proper authorities against the individual member of our profession who has been guilty of unprofessional conduct in order that the one charged may have his day in court, and not be tried by the populace on the street corner.

I am not content to let this matter pass without paying my respects to the counterpart of the "ambulance chaser" who may or may not have been admitted to the Bar, who with apparent solicitude sits at the bedside of some unfortunate victim of a personal injury at a time when his body is writhing in pain in oft instances under the influence of a sedative, and utters to said victim words of tender solicitude, counsel with him not to employ a lawyer, but to accept an immediate settlement for a trivial and inconsequential sum before the result of his unfortunate condition is fully determined. Unfortunately, I do not have words in my vocabulary to express the contempt in which I hold men who pursue such a course. If there is any excuse on God's green earth for the existence of an "ambulance chaser", here we find it; and if society is to be rid of one, let's rid it of the other.

We find it written in the law, the supreme law of the land, that man is protected in his person and in his property. When he is injured in either, he has a perfect legal right to employ counsel of his own choosing and should most undoubtedly be left free so to do, without the inter-meddling of the "ambulance chaser" or his counterpart to whom I have just referred. And if, perchance, the matter cannot be amicably adjusted without litigation, courts of our country have been established for the purpose of making a disposition thereof.

Even though the injured party in such cases may lie prostrate on his bed of pain without means of support for himself or his family; deprived, for the time being at least, of his earning capacity, he and his family destitute, the problem then confronts his attorney as to whether or not he shall permit his client and his family to die of starvation and go without medical attention or become a public charge, for the simple reason that the attorney has been employed in the matter on a contingent basis. The common dictates of humanity should not only warrant, but should justify and does justify his retained counsel in furnishing the means of subsistence during the period of his client's incapacity, rather than permit him by virtue of the necessities of the case to be forced into an improvident and unjust settlement of his cause of action in order that bread might be put into the hungry mouths of the members of his client's family and that the injured party might receive the medical attention, which probably under the circumstances, he so richly deserves.

Some days ago I read an article in *Scribners* by G. Hilton Butler, entitled "Two Hundred Dollars for a Broken Back". Those

who are curious, those who have not read this article and who may desire to read it, will find an attractive exposition of the artifice and wiles practiced on ignorant men and an ignorant child by a man who subscribes himself as a member of our profession, a claim adjuster—and a Mississippi lawyer. It is my good fortune to represent corporations as well as the humblest citizen of the land. However, I hope that the time will never come in my career when my sensibilities shall be so numbed by partisanship or professional connection that I cannot view with equinimity the justice of any cause. All lawyers who accept damage suits are not ambulance chasers, and all persons who seek an adjustment with a party injured through any real or fancied negligence are not subject to condemnation.

I resent any assault through the press, or otherwise, on our honorable profession by reason of the misconduct of the few. It is just as much incumbent upon the press and upon the private citizen to be honorable, to be upright, to be just in their statements as it is upon the members of our profession. The same rule, the same guide—namely, moral precept and example—governs in its final analysis the conduct of us all. Let us constantly bear in mind each day as we go along this life's journey the following words of that wonderful poet, Omar Khayyam:

> "The Moving Finger writes; and having writ,
> Moves on: nor all your Piety nor Wit
> Shall lure it back to cancel half a Line,
> Nor all your Tears wash out a Word of it."

(Applause)

THE CHAIR: I have great pleasure in presenting to you next Hon. William A. Bacon of Durant, who will address you at this time.

MR. BACON: Mr. President and Members of the Mississippi Bar Association: It is a distinct privilege and pleasure for me to be able to appear before you here today, perhaps somewhat in the role of a representative of the Junior Bar Association, and to discuss with you for just a little while the problems and perspectives of the young lawyer.

The meeting this year in Vicksburg has been especially enjoyable and I know that each lawyer and visitor here present has had a splendid time and I take this opportunity of thanking you for your hospitality. I know that I speak the sentiments of the Junior Bar members when I say that we are most appreciative for

the good time you have given us and we look forward to that next time in what we hope will be the not-too-distant future when we have another meeting here in Vicksburg.

When I was first asked to talk to this distinguished assemblage about the problems of the young lawyer, my immediate thought was that I ought to know a good bit about the problems even if I am not quite so clear about the perspectives.

I think that perhaps one of the first and foremost problems that confront the young barrister when he gets out of law school or when he passes the bar examination is the question of just where he will enter into the practice. The selection of a good place to practice law is oftentimes a very disturbing and important problem, for by the solution of that problem, quite a great deal of his success in the practice will be determined. Older men than your speaker have said that where a young man first settles, there it is likely that he will stay; for after he has been there for a while and business begins to come to his office, he hates to leave and go to another place or location. Oftentimes, too, some of the young lawyers have better luck than some of the others I could name, of which number I am a glaring example, and before long they get married and after family ties and obligations arise, they are loath to leave and go to a new location.

Naturally, a young man who is going to enter the office of his father, or some other close connection, already has the problem solved but there are many others who have to strike out for themselves, and I would say that certainly no young man should locate for practice without abundant knowledge of the site, its location, the territory from which it draws, the amount of business available to attorneys, the calibre of the bar and the opportunities to make a living and to live.

Then after the young man has located the place and has settled in a one room office and has hung out a most imposing and eye-pleasing shingle announcing to the world that he is a full-fledged "Attorney and Counsellor at Law," and has left that shingle to wave in what he hopes will be a legal breeze, he is then ready for the law! Perhaps then comes the greatest problem of them all, for that young man must have clients on whom and for whom to practice. This is especially true of the youngster starting out by himself and it seems to me, from observation and from my limited experience, that the young lawyer should make all the contacts he possibly can and he must seek to develop that sense of reliance which will be so essential to him throughout his practice.

As soon as the office is established, there will come a need for office supplies and books and the young lawyer is usually "swamped" with book salesmen urging that such and such a set of books or digest be bought—otherwise, success in the practice of the law will be impossible. If the young attorney should buy all of the books urged upon him by the salesmen, then he would spend the rest of his life paying for them, but I think that most of the younger fellows do as I have heard them say they do, and as I do; and that is to tell the book salesmen that our practice is largely confined to the Mississippi Code of 1930, thank you, and we already have a copy of the Code.

Another problem that soon confronts the young limb of the law is the problem of fees, for it is a foregone conclusion that sooner or later a client is sure to come our way and if we do some work for him, then we must face that all important and awe-inspiring time when we give our client, in what we hope is a causal voice, the amount of the fee. I think that most of us have kept in mind what we were taught in law school to the effect that we must never undervalue ourselves and if we do not think enough of ourselves to charge a good fee, then our clients would not think that they were getting very much for their money. If perhaps some help in law schools might be given as to the actual amount of fees that should be charged, then I think that it would be a splendid help to the young lawyers who have not had experience in such matters.

I recall that on at least one occasion I have heard one of the present Supreme Court justices recall the fact that when he won his first case and secured a judgment, he had not any earthly idea as to how it should be written, and if you will excuse me for this personal reference I should like to tell you about my fee-charging experience.

A very poorly dressed man walked into my office one day just after I had announced to the world that my services as a lawyer could be secured for a consideration, and after I finished pretending to be busy for a moment or two in order to impress my client, I asked him what I could do for him. He told me that he had an account, a very small one of only several dollars, to probate against an estate over at the court house across the street and he wanted to know how much I would charge him to go over to the court house with him and show him how to probate that account. At that time, I was very considerably inexperienced in the practice of the law, but I did not want anyone to know it and I did not want

anyone to think that my fees were too low. Then too, I had only a hazy and nebulous idea as to what the probation of an account amounted to. I told the man that I reckoned that I could help him for $7.50. Needless to say, the client backed out of the door rather apologetically and I hurried over to the chancery clerk's office to find out about the probation of accounts. It was only then that I realized that I had been just a little too high in the assessment of fees.

If I may get down to the serious side of my talk again, I think that perhaps one of the most serious of all the problems that a young lawyer has to face today, and I say this advisedly, is the problem of the older lawyer. I do not mean to indict the members of this Bar Association or any of the lawyers over the State, and most certainly I do not mean to give offense to any; but I must repeat that the old lawyer is one of the greatest problems with which the young lawyer has to contend.

I feel sure that I am correct when I say that there is hardly a young attorney who comes out of law school or from a bar examination into the practice of the law who does not have the highest ideals possible with reference to the ethics of the Bar Association. He comes into the practice imbued with the spirit and ideal that he is going to do only those things which are right and that he will never violate the ethics of the profession. Of course there are exceptions to this rule, but I believe that is the general feeling held by the young lawyers everywhere. After he has been into the practice for only a little while, he sees lawyers older in the profession doing things which are perhaps unethical and his faith is somewhat shaken in some of his brethren. Of course this reference to the ethics of some of the older members is just like a preacher talking at prayer meeting on Wednesday night—the very ones at whom he is aiming his remarks are the ones who never come to the meetings and so it is here.

Then another problem that perhaps the young barrister of today faces is the attitude on the part of the older lawyers who sometimes try to be condescending to the young man, or on the other hand, they might try to run rough-shod over him. We do not expect and cannot expect to surpass men twenty years our senior in experience and the practice of the law. We know we must bide our time as the older attorneys have done and business will finally come our way, but in the meantime we want to be treated fairly and not with too much condescension.

While I have talked perhaps a little too much about the older lawyers, we have our problems of ethics too, for many of us as young lawyers have sat and twiddled our thumbs and waited for the clients to come in and meanwhile we have seen ambulance chasers and shysters grow fat on business, some of which might possibly have come to us had it been left alone to follow its natural course.

I do not mean to condemn our bar or our profession, for I am one of those who think that our business is the greatest in all the world and I know that we have the opportunity of doing more good than perhaps any other profession or business.

Back in April, 1936, an article appeared in the *Readers' Digest*, under the title: "Don't Be A Lawyer." It was an anonymous article written by a man who had been in the practice for fifteen years and had grown discouraged because of what he claimed were so many abuses of the profession. All of us will admit that there are many abuses in the profession of law just as there are abuses in every business and profession in the world, but that still does not keep us from having the greatest calling of them all. Naturally, there are men trying to practice law who cannot succeed, but I can show you just as many bond salesmen who are pretty ragged and down at the cuff; a number of insurance solicitors have had a mighty hard time; quite a few ex-bankers and ex-manufacturers have not done so well either, so that just shows that there are failures in all of the businesses and professions.

There will come times in every man's life, whether lawyer or not, when it seems that everything goes wrong and when life hardly seems worth living. But at such times I hope we can cheer up and inbue our very souls with the words and spirit of that indomitable character, William Henley, from his poem, *Invictus*:

Out of the night that covers me,
Black as the Pit from pole to pole,
I thank whatever gods may be
For my unconquerable soul.

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloody, but unbowed.

Beyond this place of wrath and tears
Looms but the horrow of the shade,
And yet the menace of the years
Finds, and shall find me, unafraid.

It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate;
I am the captain of my soul.

When such times are seemingly so dark, perhaps we can then realize what a wonderful profession and a splendid opportunity we have. Our hearts and minds can hearken back to the days of Blackstone, Coke, Chitty and all of the great legal lights of yesteryear and I think that we can be thankful in our hearts that we have such a great calling and such a magnificent heritage.

The mighty heritages of the law and the traditions of right, honor and justice are those rewards which have come down to us through the ages and I know that we are rightfully and justly proud of them.

Let us be thankful then that we do have such a noteworthy work to perform here in the land of the free and the home of the brave, and let us know that even in times of deepest depression a great deal of our money is tied up in books and learning and not in machines and securities, which things, I am told, depreciate a great deal quicker than the products of our trade.

I take this opportunity of saying publicly, and I know that I speak the sentiments of the younger members of this Bar, when I say that we are proud to be a part of a profession that has had an honored existence through the ages. We are deeply gratified that we are brothers in a calling that today furnishes men as governers in twenty-four states out of the forty-eight; that furnishes the chief executive officer of our nation, the President of the United States; that furnishes five lawyers out of a ten man cabinet for that President of the United States. We are proud of the record of the lawyers in the halls of our national congress and in the halls of our state legislatures for it has been those men, members of our honored profession, who have written in lines of blazing fire across the unsullied pages of our national history, the deeds of men true and bold, and we give thanks that in a great number of cases those men have been lawyers, and proud of the fact that they were a part of the greatest profession on earth. We young lawyers

stand before you today with a promise on our lips and a desire in our hearts to carry on in the name and in the spirit of those great men who have preceded us.

As I have said before, we have abuses and troubles in our profession, just as every business and profession has difficulties, but why can we not make it a point that, as far as humanly possible, we will cut out those abuses. If unethical practice is a blot and cloud on our character, as you and I know that it is, then let us make a super effort to cut it out and cast it away from us, and we will be much the better for having done it.

I tell you older members in this profession that we are looking to you for guidance and counsel in our desire to help and to do everything possible for that betterment of our positions and our calling. While we cannot expect too much help, we are looking to you to lead and to point the way—to set the example so that we will have the right path to follow. I know of no better way to tell you what we expect than to tell you about;

An old man traveling a lone highway,
Came at the evening cold and gray
To a chasm deep and wide.

The old man crossed in the twilight dim;
For the sullen stream held no fears for him.
But he turned as he reached the other side,
And builded a bridge to span the tide.

"Old man," cried a fellow pilgrim near,
"You are wasting your time building here;
"Your journey will end with the ending day
"And you never again will pass this way.

"You have crossed the chasm deep and wide,
"Why build you a bridge at eventide."
And the builder raised his old grey head;
"Good friend, on this path I have come," he said,
"There followeth after me today
"A youth whose feet will pass this way.

"This stream, which has been as naught to me,
"To that fair-headed boy may a pitfall be;
"He, too, must cross in the twilight dim.
"Good friend, I am building this bridge for him."

That is the sort of help which I believe the younger members of the bar are expecting from you and I know that they will not be disappointed.

We realize that the way will not be easy but we know that the path will have many dangers and temptations, but we are going to do our best to stay right on the straight and narrow, and with your help, assistance and counsel, I am sure that we will not know the word "failure." And then there will come a time in later years, when perhaps the shadows have begun to lengthen toward the west, we will be able to turn about and look into the land of the rising sun and see the pathway over which we have come, and then we will know that we have fought the good fight, that we have pursued the wise course, and that we have won! (Applause).

REPORT OF ACTIVITIES OF LOCAL BAR ASSOCIATIONS

The program for the 1938 annual meeting of the Mississippi State Bar included a report of activities of local bar associations. This report was not presented at the sessions because other proceedings crowded it out. The President and Commissioners of the State Bar have been very much interested in increasing the activity of local and district bar associations, and for that reason it has been suggested that the report be reduced to writing and incorporated in the proceedings of the 1938 meeting.

The Mississippi State Bar has made substantial progress in developing a program of practical use and benefit to the lawyers of the state, in stimulating a closer fraternal spirit among the members of the bar and improving the administration of justice. However, the program of the State Bar is narrowed in its scope by reason of the fact that the only direct contact with the lawyers of the state is at the annual session and through the pages of the Mississippi Law Journal. Throughout the year, except for the proceedings of the Bar Commission and such committees as may be at work, the members of the bar can, of course, receive no direct benefit from the State Bar. Many of the lawyers of the state are not able to attend the annual session, and thereby miss the inspiration and fraternal spirit of that occasion.

The governing board of the State Bar is very much impressed with the idea that if each county in the state and each district in the state could have an active bar association which would hold fairly frequent meetings, at which the lawyers would gather to cement their friendships, discuss such problems as might confront them as a group, and listen to speakers with worthwhile subjects,

either from among their own memberships or from other counties, this would broaden the effectiveness and the usefulness of the State Bar. As a matter of fact, such meetings might even surpass that of the State Bar in real interest and usefulness to the lawyers.

With that in mind, the Commissioners of the various districts have been urged during the past year to endeavor to stimulate active organizations in their various counties as well as in the several districts where district organizations are practicable.

The report herein included, which is based on replies to letters to the Commissioners in the various districts, is not for the purpose of criticising any district in which there is not much activity at present, but rather to broadcast the information available with respect to what has been accomplished during the past year, in order that other local associations may be encouraged to do likewise. The report in summary form is as follows:-

FIRST DISTRICT—There is an active association in Monroe County which has held several meetings. There are county organizations in Lee County and Alcorn County.

SECOND DISTRICT—There is an active association in the City of Biloxi and in Harrison County. No social meetings have been held. The Harrison County Association occasionally invites the lawyers of the district.

THIRD DISTRICT—No report.

FOURTH DISTRICT—A district association was organized at Indianola on April 2, 1938. A large number of lawyers was present, and a permanent organization was established. It is planned that meetings will be held three times each year. A second meeting was held at Greenwood on May 28, 1938. There was a large attendance and a banquet. The program was as follows:-

1. "What changes, if any, are needed in our jury system?", by Hon. Ben Wilkes of the Washington County Bar.

2. "What one change in civil trial procedure is most needed?", by Hon. G. H. McMorrough of the Holmes County Bar.

3. "Suggestions for charging and collecting for legal advice", by Hon. Sam I. Osborn of the Leflore County Bar.

4. "Getting thoughts off my chest", discussion led by Hon. R. H. Nason of the Humphreys County Bar.

5. "Hurtful habits of lawyers in trials", by Judge S. F. Davis, Judge of the Fourth Circuit Court District.

FIFTH DISTRICT—No report.

SIXTH DISTRICT—It is planned to organize a district association which will meet in Natchez.

SEVENTH DISTRICT—The Hinds County Bar holds a semi-annual business meeting on the first day of the chancery term. The annual banquet was held April 25, 1938. Mr. R. M. Kelly was speaker, and a fine meeting was held. It is planned to hold monthly study meetings, at which interesting topics will be considered. The first was held May 31, 1938, when the new federal rules were discussed by Judge Griffith.

EIGHTH DISTRICT—Some effort has been made toward a district organization, but it has not yet developed.

NINTH DISTRICT—There is no district organization, though some effort has been made in past years to organize one. The Vicksburg Bar has an occasional banquet.

TENTH DISTRICT—No report.

ELEVENTH DISTRICT—Plans for a district organization have been definitely made. It has been decided to hold the first meeting in July or August.

TWELFTH DISTRICT—No report.

THIRTEENTH DISTRICT—A county association has been organized in Simpson County.

FOURTEENTH DISTRICT—Lincoln County has organized a bar association. There is no district association as yet.

FIFTEENTH DISTRICT—There is no district organization, but there are several county associations.

SIXTEENTH DISTRICT—There is an active association in Clay County which has held frequent meetings. It is planned to have district meetings in the future.

SEVENTEENTH DISTRICT—A district association was organized at Batesville May 31, 1938. Thirty lawyers were present, representing every county of the district. It was the best meeting ever held in the district. It is planned to hold regular meetings in the future.

Respectfully submitted,

FRED J. LOTTERHOS,
Chairman

MISSISSIPPI LAW JOURNAL

May 25, 1938

Assets

Appropriation from Mississippi State Bar	$1500.00
Sale of Journals, back numbers, books and subscriptions	123.82
Cash advertisements	139.00
Accounts receivable	73.00
Total	$1835.82

Expenditures

Summer Expense	$ 22.77
Postoffice box rent	3.00
Mailing Journals from office	11.00
Printing and distributing Journals (including Vol. IX No. 5, and Vol. X, Nos. 1, 2, and 3)	1714.21
Banking expense and exchange	11.00
Office expense, stamps, stationery, etc.	89.03
One page insertion in annual	30.00
Telegrams	3.08
Miscl. expense	17.35
Bills outstanding	16.95
Total	$1918.39

ROBT. S. NEWTON,
Bus. Mgr. Vol. X.

DAVID C. BRAMLETTE
Chairman Law Journal Comm.

MR. KELLY: I very much regret that for the two last speakers on the program, who were such splendid ones, we had such a small number of members in attendance.

THE CHAIR: You have heard complaints about the profession and that the Bar Association is accomplishing nothing and that the membership means nothing; but I want to say to you as long as we have men who entertain the sentiment of the speakers whom we have just heard, all will be well—you may be sure of that.

The time has come when the most pleasant duty which shall have been mine when I leave here, is to be performed.

I want to thank you again before I leave the stand, for the honor conferred upon me in electing me your president. You

honored me far beyond my deserts and no man realizes it more than I do. It is humiliating to discuss anything that may have occurred that prevented me from rendering every service that I hoped to render to this Association. I have served as best I could under the circumstances.

I am very glad indeed that we have succeeded in having a committee on Pleading, Practice and Procedure appointed that actually functioned and that studied the problems that concern us all, concerns every lawyer in the State of Mississippi. This committee has reported its recommendations, on which we will receive action at the next meeting of the bar. I prophesy that whatever you decide about those recommendations your conclusions are going to be found on the statute books of the State of Mississippi. This talk about inability to get the Mississippi Legislature to enact a law when that law is wise and just, is, in my judgment, unfounded. We all know that it frequently occurs that the same names appear in the jury box term after term. To obviate this condition which threatened the integrity of the jury system, the legislature took up the question of making the necessary changes in the jury law. All that was required was to bring to the attention of the proper legislative committee this danger.

Not as your president, but as a private citizen, I contacted members of the legislature and discussed the evil. The legislature promptly enacted an amendment to the law removing this evil. In my own county, before the legislature acted, I discussed with our circuit judge the situation which prevailed. Our judge, after giving the matter due consideration, simply excused from the panel those who had served within two years. Today the law as amended makes it impossible for a man to serve as a juror who has heretofore served within a period of two years.

I refer to this matter as evidence of the fact that we can depend upon the Mississippi Legislature to respond whenever legislation with merit is suggested to that body.

Now, my friends, my duty is done.

MR. BRAMLETTE: On behalf of the Mississippi State Bar, at this time, I would like to express the appreciation of every member of this Bar for the services of the president. (Applause). It happens that I am not speaking of a stranger. We have been lifelong friends. Our family friendship goes back to that time he spoke of this morning when he spoke of Uncle Jack Reily running at Vicksburg when the Yankees took after him—that is the first time I ever heard of Uncle Jack Reily running from anybody.

MR. REILY: I was not talking of Uncle Jack, I was talking of another relative.

MR. BRAMLETTE: I thought it wasn't Uncle Jack running away from anybody. I have known him all my life; our families have been life-long friends. We are very fortunate in having had him as president. I have had experience with many lawyers in this country and in other countries, and I want to say that he has no superior as an advocate at the bar and as a lawyer, and I want to express our appreciation. (Applause).

MR. C. L. GARNETT: I move that this Bar express its thanks to the members of the Vicksburg Bar and the Vicksburg people for their fine hospitality to us.

MR. GRAHAM: Second the motion.

THE CHAIR: It has been moved and seconded that we express our thanks to the people of Vicksburg and to the members of the Vicksburg Bar for their hospitality. All in favor of the motion will say "aye"; opposed "no"; and the motion has carried.

I am sure that it is the sentiment of every member who has been here that there is no place on earth where the hospitality of the people is warmer or more genuine than here at Vicksburg.

MR. KELLY: I want to submit a little poetry of Mr. Ellis'.

MR. BRAMLETTE: I move that he be requested to read it.

MR. JACOBSON: I second the motion, that this poem of our poet laureate be read:

VICKSBURG

(An Historic City with a Great Past, a Progressive Present and a Glorious Future)

On Vicksburg's rugged hills, entranced, I stand,
And look away o'er famous fields below
To where the line of mine adopted land
Is tossed at will by the water's deep flow.

On Vicksburg's rugged, everlasting hills
From Shirley House down gorges to the river,
The memory of tragic days still thrills
Heroic souls forever and forever.

They fought each other, struggled, starved and died,
Exhausted all resources on this earth,
Then passed along beyond the Great Divide
To that Great Judge who gives each one his worth.

Behold, the years have fled away since then,
The olive branch, yes, wild acacia grows,
The flight of time hath healed the hearts of men
And softened all the iliad of our woes.

But Vicksburg lives, still lives, through peace and war,
Resplendent in her glories as of yore,
With eyes fixed on her rising, lucky star,
Her morning star forever—and—evermore.

Let grass grow green above her hallowed graves,
The birds build nests in ev'ry cannon's mouth,
While Vicksburg stands above the flood and waves
The torch light of new glory, Old-New-South.

W. A. ELLIS
June 10, 1938

MR. JACOBSON: I move that the poem be recorded in our minutes.

MAJOR WELLS: Second the motion.

THE CHAIR: It is very beautiful; it is a compliment to the man who composed it.

Will Mr. Kelly please come to the stand?

It becomes my duty and it is a happy duty I have to perform, in turning over the gavel to you. I know that this Association will have as its president one who will give all that is in him to it, to the end that its members may know and love each other better.

MR. KELLY (in the chair): I could not say anything if I wanted to. I will do the very best I can for the success of the Association, and I know that I will have the support of all of the loyal members of this Association. The friendships I have made while meeting and mingling with the members of this bar are worth more to me than any and everything else in all the world. I thank you. (Applause).

This meeting will be adjourned until such time as we meet in Biloxi.

(Whereupon the convention adjourned *sine die*).

I certify and approve the foregoing as the proceedings and minutes of the annual meeting of the Mississippi State Bar.

MARION W. REILY, President,
June 30, 1938 ALICE NEVELS, Secretary

Proceedings

of

Junior Bar Section

of

Mississippi State

Bar

Held At

Vicksburg, Mississippi

June 8th, 1938

Junior Bar Section

JOURNAL of the MISSISSIPPI STATE BAR

AUGUST, 1938

STATEMENT OF THE CHAIRMAN OF THE JUNIOR BAR SECTION

To the Members of the Mississippi State Bar:

The interest of the younger lawyers of the Mississippi State Bar in its activities has been evidenced by the large attendance by members of the Junior Bar Section upon its sessions and the sessions of the Mississippi State Bar.

It is the purpose of the Executive Committee of this section to provide an opportunity for activity and service to as many of the younger lawyers as possible, and, therefore, every member of this section has been written and asked to advise us of the activities in which he is interested.

In accordance with the instructions adopted by the section and suggestions made by individual members of the section in response to the above letter, the committee has adopted the following activities for the present year:

1. The establishment of a legislative drafting committee to cooperate with a similar committee of the Mississippi State Bar;

2. To study the method of the selection of the Judiciary;

3. To study the desirability of creating a Bureau of Identification and Investigation;

4. To cooperate with the young lawyers just entering the practice, to welcome them and offer helpful suggestions with regard to location, type of practice, ethics, etc.;

5. To recommend changes in laws to remedy inaccuracies, omissions and conflicts in present statutes;

6. To recommend improvements in present court procedure and practice and especially examine the federal rules to determine whether these rules can be adapted for use in Mississippi.

The personnel of these committees will be given in the next issue of the Law Journal and we hope that any members of the bar

who have suggestions to make along these lines will get in touch with the chairmen of these committees. We feel that the responsibility of the success of the Junior Bar Section as a part of the Mississippi State Bar depends upon the activity of its members, and, therefore, the executive committee pledges itself to give freely of its time to carry out the objectives which have been adopted for this year.

We invite the constructive criticism of any members of the bar upon any phase of the activities of this section.

JOHN C. SATTERFIELD, Chairman,

Junior Bar Section of the
Mississippi State Bar

PROCEEDINGS OF THE SECOND ANNUAL MEETING OF THE

Junior Bar Section

Held in the City of Vicksburg, Mississippi on the 8th of June, 1938

HON. JESSE H. GRAHAM, Chairman, presiding:

THE CHAIR: We want to open the Second Annual Convention of the Junior Bar Section of the Mississippi State Bar. We have a program that we hope will be instructive as well as helpful and enjoyable to us.

For the benefit of the members of the Junior Bar who did not attend the meeting in Meridian last year, we approved and accepted three major objectives, which we will endeavor to carry out and put through.

The first of these is the "Encroachment on the Practice of Law by Corporate Fiduciaries". A committee was appointed by the chairman headed by Mr. L. O. Smith of Jackson as chairman.

We are going to take up these various committee reports first, and I am going to call on Mr. L. O. Smith at this time to make a report for his committee. (Applause).

MR. L. O. SMITH: Mr. Chairman, ladies and gentlemen: The committee appointed by Chairman Jesse Graham, pursuant to resolution adopted by the Junior Bar Committee and by the Mississippi State Bar at the 1937 session, condemning the encroachment on the practice of law by corporate fiduciaries, begs leave to make the following report: (reading)

At the 1937 meetings of the Junior Bar Committee and of the Mississippi State Bar, a resolution was adopted, which limited the activities of corporate fiduciaries and the chairman of the Junior Bar committee was directed to appoint a committee to prepare and present to the legislature of the state of Mississippi any legislation which the committee thought necessary to put into effect the principles set out in the resolution.

REPORT OF THE COMMITTEE UPON ENCROACHMENT UPON THE PRACTICE OF LAW BY CORPORATE FIDUCIARIES

A committee was appointed by Chairman Jesse Graham of the Junior Bar Committee, which committee being composed of D. C. Cottrell, Jr., John C. Satterfield, W. A. Strong, Jr., and L. O. Smith, Jr. This committee met on January 22nd, 1938, immediately after the legislature convened. The committee prepared a bill to amend Section 3710 of the Mississippi Code of 1930, which section defines the term "practice of law". The committee was of the opinion that section 3710 of the 1930 Code was broad enough to prevent the practices which the Junior Bar committee and the Mississippi State Bar had condemned at the 1937 session. However, an amendment to section 3710 of the 1930 Code was prepared by the Committee so that corporate fiduciaries would be specifically pointed out and forbidden to practice law.

The bill was introduced in the House of Representatives and referred to the Judiciary Committee. The chairman and members of this committee contacted members of the House of Representatives, and especially the members of the Judiciary Committee, who were members of the Junior Bar, and urged these representatives to assist in securing the passage of the bill. Favorable responses were received from the Committee members, but the bill was not reported out of the committee until the last few days of the session, and the legislature adjourned before the bill was placed on the calendar of the House of Representatives.

In view of the fact that the resolution adopted by the Junior Bar at the June, 1937 session is directed to limit the activities of corporate fiduciaries and to prevent corporate fiduciaries from engaging in certain specific practices which constitute practicing law, and which practices are condemned by section 3710 of the Mississippi Code of 1930, the committee is of the opinion that by sending to all banks in the state of Mississippi a copy of the resolution adopted by the Bar at the 1937 meeting, the result that we hoped to obtain by the amendment to section 3710 of the Code of 1930 would be accomplished. The Bar would in this manner direct the banks' attention to the prohibition contained in section 3710 of the Code of 1930; at the same time advise the bank that its fiduciary activities should be limited as set out in the resolution. The Bar's condemnation of the encroachments by corporate fiduciaries on the practice of law is of no judicial consequence, nevertheless corporate fiduciaries are advised that the Bar is of the opinion that

the actions condemned by the resolution are illegal. The resolution will tend to prevent violations of section 3710 of the 1930 Code. The committee, therefore, recommends that the Secretary of the Junior Bar Committee be instructed to send to all banks in the state of Mississippi a copy of the resolution adopted by the Junior Bar Committee and the Mississippi State Bar at the 1937 meeting, limiting the activities of corporate fiduciaries.

Respectfully submitted,

D. C. COTTRELL, Jr.
JOHN C. SATTERFIELD
W. A. STRONG, Jr.
L. O. SMITH, Jr.

MR. SMITH (continuing): I therefore move that the secretary of this committee be directed to send to all banks in the state of Mississippi a copy of the resolution passed at the 1937 session of the Junior Bar and the Mississippi State Bar, condemning the encroachment by corporate fiduciaries on the practice of law.

We think that this will serve the same purpose as our amendment which was prepared and presented to the legislature for passage.

If the convention remembers last year, a committee, presided over by Mr. J. K. Travis, prepared a resolution which was adopted by this association and by the Mississippi State Bar, condemning the practice of law by circuit clerks, chancery clerks, adjusters and the like. As I remember, the Secretary of the Association was directed to forward to all chancery and circuit clerks throughout the state of Mississippi a copy of the resolution of that particular committee. That resolution has had a good effect to prevent violations in our state, prohibiting those not licensed from practicing law. I have been in two or three chancery clerk's offices, who have posted that resolution on the walls of their offices, and when some person comes in and asks them to prepare certain deeds or wills, he just refers to that resolution and says "The State Bar has called our attention to such actions which constitute the practice of law. Therefore, I cannot prepare the deed or give the certificate of title".

We think by sending a copy of this resolution to all of the banks this practice will be corrected.

I therefore recommend that the committee's report be accepted as a part of the motion which has just been made. (Applause).

THE CHAIR: You have all heard the report of the chairman of this committee and his recommendation. I would like to hear what the will of the body is. Do I hear a second?

MR. STOKES ROBERTSON, Jr. Second the motion.

THE CHAIR: Any discussion?

MR. JOHN C. SATTERFIELD: I am a member of the committee which submitted this report, and I would like to move that the chairman of this committee, or his successor, be authorized to add to this resolution, which will be sent to the banks, a short brief with reference to the unauthorized practice by corporate fiduciaries. The reason for that is that the committee has a compilation of decisions in the United States of the courts condemning such practices by the banks, and it seems to me—and I understand it is agreeable to the chairman, if it meets the approval of this body—that the banks be sent a copy of this resolution and also a short brief of three or four decisions of the supreme court of other states condemning the practice in which they are now active; it will have much greater weight with the banks where they see that the Bar is being backed by the great weight of authority of the courts of other states. Therefore, I make the recommendation which I have stated.

THE CHAIR: You have heard Mr. Satterfield's motion; is there a second?

MR. ALLEN THOMPSON: Second the motion.

THE CHAIR: You have heard the motion and the amendment which was accepted. All in favor of the motion will say "aye"; opposed "no". The motion is carried.

The second matter which I wish to call to the attention of the assembly here this evening is the second objective, which was approved at the last annual meeting of the Junior Bar Section of the Mississippi State Bar, and that was, the "Unauthorized Practice of Law." Honorable J. K. Travis, of Hattiesburg, is chairman of that committee, and we will now have a report from him. (Applause).

MR. J. K. TRAVIS: Mr. Chairman, members of the Junior Bar Section, ladies and gentlemen: The chairman can claim very little credit for such report as we have to submit. As for the two bills which I shall read presently, the chairman of this committee cannot claim for writing either one of those bills. The members of the committee attended the executive committee meet-

ing held in Jackson some time back. Prominent attorneys from over at McComb and other sections of the state deserve a great deal of credit for our report. First, I shall read the report, and then laying all parliamentary rules aside, we can discuss it and move that it be adopted by this body.

The report is as follows: (reading)

RESOLUTION ON UNAUTHORIZED PRACTICE OF LAW

WHEREAS, the Junior Bar Section of Mississippi State Bar, at its June, 1937, meeting, adopted a resolution condemning generally the unauthorized practice of law, which resolution was ratified and adopted by the said Mississippi State Bar and, as we are informed, has had a salutary effect on unauthorized practice; and

WHEREAS, the practice of law by one holding judicial position is forbidden by statute, and is unauthorized; and

WHEREAS, all judges and chancellors should refrain from accepting any professional employment or otherwise practicing law, even though without compensation, and should be so restricted by law; and

WHEREAS, there are certain important omissions in our present statutes as to practice of law by judges and chancellors, one of which is the lack of sufficient restrictions as to practice of law by county judges, another the lack of sufficient restrictions to prevent judges and chancellors from engaging in gratuitous practice of law, and another, the lack of adequate remedies to discipline those offending in such cases; and

WHEREAS, the best interest of the state of Mississippi, the Mississippi State Bar, and the judiciary will be promoted by the correction of these omissions by legislative enactment, and the judges and chancellors will thereby be protected from those seeking legal advice and service,

THEREFORE, BE IT RESOLVED:

1. That the Junior Bar Section of Mississippi State Bar reaffirms its former resolution in all respects, and urges that it be carried into effect as heretofore, insofar as possible, and that when complaint is made or it is otherwise deemed advisable, copies of such resolution be sent as heretofore to offending persons or parties, or to those likely to engage in unauthorized practice.

2. That it is our belief that the two proposed bills hereto annexed, or similar bills, should be approved by this body and

presented to the Mississippi State Bar for its action, and, if approved by the said Mississippi State Bar, that it take appropriate action to have the same introduced in the state legislature and enacted into law.

3. That copy of this resolution be furnished the Mississippi State Bar for such action as it deems proper.

Respectfully submitted,

J. C. WILLIAMS
LESLIE DARDEN
J. K. TRAVIS
Committee

.....BILL NO.....

AN ACT ENTITLED:

AN ACT providing that the Mississippi State Bar shall have authority and it shall be its duty to consider and take action upon all complaints or charges filed with or submitted to it relating to personal and official misconduct on the part of any of the judges or chancellors of the state of Mississippi, or negligence on their part in the discharge of their duties, and for authority to institute inquiries upon its own motion, and outlining the duty of such bar with reference to such complaints.

SECTION 1. Be it enacted by the Legislature of the State of Mississippi, State Bar Shall Investigate Complaints Against Judges—The Mississippi State Bar shall have authority and it shall be its duty to receive, consider and take action upon all complaints or charges which may be filed with or submitted to it alleging either personal or official misconduct on the part of any of the judges or chancellors of this state, or negligence on their part in the discharge of their duties. It may also institute inquiries upon its own motion in the same manner and to the same effect as though complaints or charges had been submitted to it, and any member of the State Bar may individually institute inquiries upon his own motion in the same manner and to the same effect as though complaints and charges had been submitted to the State Bar. It shall be the duty of every attorney who may be a member of the State Bar to give information to it of any personal or official misconduct on the part of any of the judges or chancellors, or of negligence by them in the discharge of their duties. All complaints, motions and applications shall be addressed to the

Board of Commissioners of said State Bar, and if the said Board of Commissioners shall, after inquiry and investigation, consider that any judge or chancellor of this state has been guilty of personal or official misconduct, or of negligence in the discharge of his duties, it shall be its duty to designate a committee which shall formulate charges and lay them before the legislature of the state for such action as may be deemed by it advisable, or to take such other appropriate action as is allowed by law.

SECTION 2. That this act shall take effect and be in force from and after its passage.

.....BILL NO.....

AN ACT ENTITLED:

AN ACT to amend section 3696 of the Mississippi Code of 1930 so as to provide that it shall be unlawful for any judge of the supreme court or judge of the circuit court or county court, or a chancellor to practice law either for fee or gratuitously.

SECTION 1. Be it enacted by the legislature of the state of Mississippi, That section 3696 of the Mississippi Code of 1930 be and the same is hereby amended so as to read as follows: Section 3696. Judges Not to Practice Law.—It shall not be lawful for any judge of the supreme court, or a judge of the circuit court, or a chancellor, or a judge of any county court to exercise the profession or employment of an attorney or counsellor at law, or to be engaged in the practice of law either for fee or gratuitously; and any person offending against this prohibition shall be guilty of a high misdemeanor and be removed from office; but this shall not prohibit a chancellor or circuit or county judge from practicing in any of the courts so far as to enable them to bring to a conclusion cases actually pending when they were appointed or selected, in which such chancellor or circuit or county judge was then employed; nor shall a judge of the Supreme Court be hindered from appearing in the courts of the United States in any case in which he was engaged when he was appointed or elected judge.

SECTION 2. That this act shall take effect and be in force from and after its passage.

MR. TRAVIS (continuing): I will say, briefly, that referring to our former resolution, as already pointed out, we have heard some good reports from that resolution. We know there is still some unauthorized practice of law, and will be as long as we have

law, and lawyers, and laymen. At the same time, we feel that it has done a great deal of good. As pointed out by Mr. Smith a few minutes ago, my understanding is that the Chancery Clerks' Association at their last meeting adopted a resolution approving our resolution, and, in fact, many of the chancery clerks in the state have informed me that they are glad we took that position; that it prevented them from doing a good deal of gratuitous work.

It is our thought that a copy of this resolution should be sent to all offending parties, and it is also our belief, that if you see any unauthorized practice, it is the duty of every member of the Junior or Senior Bar to report that unauthorized practice, so that copy of this resolution can be sent; and if it is not corrected, at the next meeting some action can be taken.

With reference to these bills which I have just read, I might say, in the first place, credit should be given where credit is due. These bills are admirably written, and I think they are good bills. They were written by W. G. McLain of McComb, and sent to us by Mr. James N. Ogden of Magnolia. Both gentlemen are very much interested in the subject and have given it a great deal of attention.

I will say, briefly, that the first act was designed to accomplish two amendments in our present statute. One of them is in order that there may be sufficient restrictions on the county judge. Section 697 of the Mississippi Code simply reads that a county judge shall not practice law in his own county. That is what it means, but some do it. Is there any reason why there should be any distinction between a county judge, a circuit judge, chancellor or supreme court judge when it comes to the practice of the law?

There is embodied in this same bill an effort to amend section 3696 of the 1930 Code. That section does not expressly prohibit judges from practicing law without charging a fee. The act which I read really is section 3696 of the Mississippi Code with such amendments as are absolutely necessary to carry this idea into effect. The only thing we have added is "county judge" where appropriate, and also "either for fee or gratuitously." Otherwise, the act is just as it is in the Code.

That act puts back into effect certain necessary additions—Section 3714 Mississippi Code, which, of course, was repealed by the act creating the State Bar, H. B. 281, Laws 1932. The only thing added is what is necessary to carry that act into effect, in view of our present State Bar bill.

Now, of course, the committee does not have any complaint against any particular judge; that is not the view of the committee. We have one of the highest and most respected judiciaries that can be found in this entire country.

One fellow said to me a few minutes ago, "At least, if the Junior Bar took this position and the Senior Bar took the same position, the judges would not be damaged." I have in mind an instance where one of the judges of the old school had a young lady to appear in his court, and the judge did not like the way the young lady was dressed. He fined the young lady $10 for contempt for being so scantily dressed. She tendered a ten dollar bill to the clerk, who asked what it was for. She said, "For tempting the judge."

At least this report should be adopted, and we will ask for adoption.

I might say here finally that it is our position that this committee—not the same personnel, of course—should be continued in office, and if any complaints are made from time to time, they should be signed by a member of the Junior Bar and presented to the chairman of the committee.

We assume that a new committee will be appointed, or we would not make that kind of statement. We simply put this before the house. I move that the Junior Bar section adopt this report as read, with the two bills as submitted. (Applause).

MR. ROBERT HAUBERG: Second the motion.

THE CHAIR: All in favor of the motion as seconded will make it known by saying "aye"; opposed "no"; the motion carried.

The third major objective adopted at the convention in Meridian was the "Creation of County Courts." A committee was appointed to investigate and study this matter, and Hon. Hugh N. Clayton is chairman of this committee on the "Creation of County Courts." We will now hear from Mr. Clayton. (Applause).

MR. CLAYTON: I am glad you applauded before the report is read; I don't know whether you will feel the same about it after it is read. (reading)

REPORT OF COMMITTEE ON COUNTY COURTS

To the Junior Bar Section of the Mississippi State Bar:

The committee on County Courts appointed by the chairman of the Junior Bar Section of the Mississippi State Bar, begs leave to submit the following report:

The personnel of the committee is as follows: H. Edwin White, J. H. Holloman, W. A. Bacon, O. B. Triplett, Jr., Ben A. Guider, J. Gordon Roach, W. A. Beard, Jr., G. B. Cousins, Charles A. Sisson, Vice-Chairman, and Hugh N. Clayton, Chairman.

The membership of the committee was completed with the statements of the committeemen of their willingness to serve on November 1, 1937.

A conference was held between the chairman and vice-chairman in Clarksdale in the early part of November, and a letter was sent to each member of the committee, asking that he should consider the following propositions in connection with the problem of county courts, these questions being as follows:

1. What should be the amount of the salary of the county court judge and reporter?

2. What manner should be devised for raising the amount each county court district should supply, and how should the amount be determined?

3. Or, should the judges' salaries come from the State, as do those for Circuit judges and Chancellors?

4. Taking into consideration the geographical location and assessed valuation of the particular counties over the State, what counties should be grouped together to compose the county court districts?

Following this letter a meeting of the committee was called to convene in Jackson on December 14, 1937. A full representation of the committee was not had, but a discussion was had with reference to what action, if any, should be taken with reference to the forthcoming regular session of the Mississippi Legislature. It was decided to submit to the members of the committee the proposition of whether the financing of county court districts should be a duty of the state or of the respective county court districts. There was also submitted to the members the proposition of merely securing an enabling act to allow such counties as so desired to create county court districts by vote of the electors of those counties.

No satisfactory solution was offered by any of the members as to how the proposed financing of the county district courts should be undertaken, and the majority of the members were opposed to a mere enabling act. At this particular time, which was just a few weeks prior to the convening of the legislature, there was a

controversy existing between the governor and certain members of the legislature and the press as to the budget.

It was, therefore, decided that no effort should be made to submit the proposed bill creating county court districts to the 1938 session of the legislature. This decision was made following a strong denunciation of the County Court of Lee County by the Board of Supervisors of that county. This criticism of this court appeared in all the large daily papers of the state and was accompanied by a resolution requesting the representatives from that county to secure the passage of a bill abolishing the court in that county. This action was taken by the representatives, the bill passed by the legislature, submitting it to the vote of the electors of that county who overwhelmingly voted out the County Court.

It is the recommendation of this committee that the idea of county court districts be kept on the agenda of the Junior Bar Section and that a committee be appointed and authorized to study the matter further with the idea of making some definite and practical solution of the problem. It is the opinion of the committee that the knottiest problem in the whole matter is the question of determining how county district courts can be properly financed. Once this question is settled the other features of the question can be readily worked out. The committee earnestly commends to all members of the Junior Bar and State Bar the further consideration of this matter, and believes that it is of such merit that, although several years may elapse before a definite conclusion is worked out, it is worth any effort spent in its behalf.

HUGH N. CLAYTON, Chairman
County Court Committee

I might make these few statements about the matter. The report, more or less, gives a complete resumé of what the committee did and the ideas that caused the committee not to attempt to secure from the 1938 legislature any kind of act creating county court districts. You know, it was the idea of the Section at Meridian that we should strive to develop the creation of districts composed of two, three or four counties to form a county court district, each county to pay its *pro rata* part of the expense of maintaining county courts. When we got to looking into the matter it was discovered that quite a few counties were not able to pay their respective part.

In the selection of the county district judges, one method would be to have the state assume the burden, and about this time, just

before the legislature convened, the Governor announced his budget, and a few legislators and newspapers disagreed with him about these particular matters. We had no definite plan worked out, and it was the idea of this committee, to get a measure like this passed, it would be better to present it to a legislature which convened right after a new administration comes in.

We submit this report to you. We believe the idea is worth studying. We believe it can be worked out, to create some tribunal which will do away with the justices of the peace, a situation which exists, where we have two lawyers, trained in the law, trying a case before a layman, supposed to referee the controversy, who knows nothing about it.

We submit this report and recommend that it be continued on the agenda of the Junior Bar Section to study the proposition further, and that every member of the Section give some idea and thought to it, with the hope that we may work out some proposition from which we will get some result.

I move the adoption of the report.

MR. JAMES N. OGDEN: Second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no"; the report is adopted.

As you will see from your program, after the County Court question, we have report of Junior Bar Conference of the American Bar Association by Hon. Charles A. Sisson, Clarksdale, who is state chairman. I might add that Brother Sisson has been quite active in this work, and he has appointed committees in the state to have speakers to speak on the problems of government before civic organizations. He has been very active in this work, and I have pleasure in introducing Mr. Sisson. (Applause).

MR. SISSON: Mr. Chairman, members of the Junior Bar Section; before I go any further, I want to give credit where credit is due. In reference to the appointment of the committees, that was not my idea, but came from the Junior Bar Conference of the American Bar Association. I did ask several members throughout the state to take charge of it in their respective counties and neighboring towns, and credit for what has been done is due to the members who served, rather than to me.

At this time I want to express to the Junior Bar Section the good wishes of the Junior Conference of the American Bar Association.

I notice on the program that this calls for a report. Jimmy Ogden had charge of getting up the program. He did not tell me what my report would be, whether to the State or Junior Bar as a whole. I am going to take it as meaning to the Junior Bar Section as a whole. I have not read all the material coming from the Junior Bar Conference as fully as I might, but I want to read this to you, and later on make a few recommendations in view of what I have read.

In the year 1937-38 the Activities Committee prepared a program embracing the following topics and sub-committees of the Activities Committee: Public Information, Promotion of Coördination of the Bar, Promotion for Integrated Bar, Study of Substitute for Direct Selection of Judges, Raising Standards of Bar Admissions, Study and Promotion of Legal Aid, Membership.

It was left up to the chairman of each state as to which of those activities they thought would be best to push in their respective states. You have heard and I have heard criticism of the profession from the layman, and in view of that, I have thought the main feature of the program which we should try to carry out in Mississippi was that of Public Information.

As a result, directors were appointed in the larger cities and towns in Mississippi, and asked to provide speakers, and to have these speakers appear before the different civic groups in the neighboring towns and cities. These directors were furnished with all types of literature from the national office in Washington. The whole idea was to bring to the laity the fact that the law, lawyer and the legal profession were still interested in civic matters which the legal profession heretofore has always taken a lead in and on which the laity had more or less depended for leadership. In recent years we have had a lot of criticism of the legal profession, and we thought that would be the best feature to push.

Now, I wish to give credit and honor where credit and honor are due. In Meridian, Gibson Witherspoon was asked to serve, and I know that he and those whom he got into the work, did and are doing splendid work. David Cottrell down on the coast was asked to serve, and he is doing good work. I don't know what the others are doing, but I am sure some of the others are doing this work. The reason we are not doing more is due to the fact that the state chairman did not push it as hard as he should have. Another reason is this: January 1st, there were over 5,000 members of the Junior Bar Conference of the American Bar Association, as compared with only 45 members in the State of Mississippi. In

other words the younger members of the Bar were not as interested in the work of the Junior Bar Conference and what they are trying to do as they are in the Junior Bar Section. I want to recommend to the members here that they become more active in making application for membership in the Junior Bar Section of the American Bar Association. I want to put it on a basis which probably appeals to most of us, although we hate to admit it; that is—on a selfish basis. I believe the Junior Bar Section can get ten times as much from the Junior Bar Conference than the Junior Bar Conference can get from the Junior Bar of Mississippi. I say that for this reason—not in reference to the ability of the members of the two sections, but for this reason: The Junior Bar Conference of the American Bar Association has in Washington a research group which compiles statistics, material, and information on practically any subject that any member of the Junior Bar Section might want to have for any talk, or for his own information. They are glad to furnish that to us, and as I said, from a selfish standpoint, I think that if more members of the Junior Bar in Mississippi would join, that the whole Junior Bar Section, as a whole, would benefit by having at their disposal this material which the Junior Conference has.

I am going, with your consent—I am not going to ask for the privilege; just your consent, and I hear no objection—to read the nature of the Junior Bar Conference. It is said better here than I can tell you: (reading)

THE JUNIOR BAR CONFERENCE OF THE AMERICAN BAR ASSOCIATION. ITS NATURE

The Junior Bar Conference is a section of the American Bar Association. It is the only national organization created by, run by, and composed of, lawyers under 36 years of age.

The Conference was, and is, the answer of the younger members of the Bar to the challenge flung at the legal profession to improve its membership and to readjust legal machinery to serve society more adequately. It is the answer to the young lawyer's question as to how he can make his voice heard and his ideals realized respecting the great problems which confront the profession.

The Conference is an important means for developing a closer relationship between the younger lawyers and the leaders of the

profession, out of which will grow deeper understanding of the traditions and customs of the Bar.

The Conference furnishes the medium through which the younger element of the Bar may make its energy and intelligence effective for the common good and acquire its proper place in Bar Association affairs. It is the forum in which the voice of the young lawyer may be heard on the problems confronting his profession; it furnishes the means for realizing his ideals.

Created in 1934, the Conference has grown from 125 to more than 5000 members. It has made a name and place for itself not only in the American Bar Association, but also in the sphere of public activity. It has been, and is being given responsible roles to perform in matters of public and professional importance.

MR. SISSON (continuing): Just with these few words I will close.

The legal profession does not stand as high today as it did some years ago, if the reports of how it stood then are true. I am speaking now in reference to the ideals in the minds of the laymen throughout the state. If there is any way in organization that will help the members of the profession in raising their estimation in the eyes of the public generally, I think we ought to do everything in our power to accomplish that end. I thank you. (Applause).

THE CHAIR: Mr. Sisson, I want to thank you for this very excellent report, and I am sure you and your committee are doing a good piece of work, and every member of this Junior Bar is behind you one hundred per cent.

At a meeting of the Council, the Executive Committee selected two topics for discussion tonight before this body, and the first topic to be discussed will be the presentation of the proposal to establish a bureau of identification and investigation. This discussion will be led by the Hon. Walker Broach, Jr. of Meridian. I might say that he is very much interested in this topic. As district attorney I think he has found that he has not had sufficient funds at his disposal to make investigations, and he has had to use some of his personal means for this purpose. Mr. Broach would like to get the approval and adoption of this measure by this body. I have read the bill and I think it is a good measure. Mr. Broach. (Applause).

MR. WALKER BROACH, JR.: Mr. Chairman, ladies and gentlemen, and guests of the Junior Bar Section; I want to discuss

with you a few minutes a subject which has impressed itself upon me and upon my heart, and one which I believe to be of the very greatest concern to each person assembled here as well as of our entire citizenship. During this distressful period of the world's history when we hear so much of wars and rumors of wars and when all thinking people have finally been driven to the conclusion that the security of our past isolation is a thing of the past, I would discuss with you a very real enemy from within, an enemy which far outnumbers any invading force with which we have ever had to cope. I speak to you concerning an army of over 4,000,000 recruits, many of them armed and highly organized for a continuous predatory campaign upon society and decency. This statement is not made with the desire to alarm you by exaggeration, it is a matter of grim facts and figures. It has been said by no less an authority than the Director of the Federal Bureau of Investigation that even during the short time required for the few words that I have already spoken, at least two major crimes have been committed in the United States, and further from the same authority, that before the period of time expires for this discussion, there will be, somewhere within the United States, a man or woman murdered. Before the day is past, the toll of murders, alone, will be thirty-five. And that "every twenty seconds, hour after hour, and day after day into the weeks and months and years, there is committed within our boundaries some form of major crime, which annually reaches into one of every sixteen homes in this country, and which amounts to a total of 1,500,000 desperate offenses against the law each year." It has further been estimated that in addition to the tragedy of crime, it is one of our most costly luxuries. Every person here assembled is paying a hidden tax to crime which amounts to at least ten dollars a month, and I suggest to you that this figure is a minimum, for it has been estimated that the tribute of crime annually in this vaunted land of freedom of ours "amounts to $120.00 a year for every man, woman and child within the boundaries of this country." If it were true that the ravages of crime were restricted alone to our adult population, the terrific penalties which crime costs would still be sufficiently horrible, but when we add to this the fact that 20% of our crime is committed by those who have not reached their majority, and 50% of all major crimes are committed by persons under 25 years of age, we must needs be further impressed with the critical danger of this cankerous growth.

And yet you herhaps may well say that these are figures derived largely from our metropolitan and congested areas where

crime is organized in its highest degree. Should such thought occur to you, I think that perhaps one reference to our own state of Mississippi will immediately dispel from your minds any thought that this is a problem foreign to our own boundaries and one with which we are not directly concerned. For the second successive year Mississippi has led all other states of the nation in its homicide rate based upon *per capita* population. In 1935 one county in Mississippi, that county being in the northeastern section of the state, had the same number of homicides as the states of New Hampshire, Nevada and Maine combined. And should you feel that organized crime, its depredations, its tolls, and its penalties are only restricted to the larger cities of this nation, you have only to look around you to find the immediate refutation of any such assumption. Organized crime is no longer restricted to metropolitan cities. It has and does enter every town, village, and hamlet in the nation and this irrespective of any geographical location.

It is, therefore, in the light of this very real problem with which we are faced in the state of Mississippi that I propose to discuss with you the necessity of the formation, within our own state, of adequate machinery to combat the present menace with which we are confronted. "Amateur" crime or occasional breaches of the social code by the average citizen has never alarmed the speaker. That situation has always existed and doubtless will continue in the future in a greater or less degree. It is, however, organized crime that I would speak to you concerning, that is, those organized groups who deliberately, for selfish gain, are willing to sacrifice the decencies of free government itself.

While, under aroused public consciousness, we hear much today concerning enforcement of our criminal statutes and while we hear much discussion concerning our criminal laws, it will be found that within our state we have an excellent code of criminal laws and that we have a generally enlightened code of criminal procedure governing trials for criminal offenses. However and unfortunately, we immediately find that, insofar as our machinery for the investigation and detection of crime is concerned, we are at least one hundred years behind the necessities of the situation. In fact, I am able to recall only two statutes, both enabling the taking of photographs and finger prints passed within our state since 1857, as regards any progress or improvement in the provisions of our laws relating to criminal investigation.

To the most inexperienced layman it is immediately apparent that, very often, in instances of homicide and murder, an autopsy

is the first matter of importance, and often is the only hope of accurately determining the cause of death, particularly where the defense of a suspect may be accidental or normal causes. An accurate autopsy is as much for the benefit of an innocent suspect as for the successful prosecution of a guilty party. The only statute within the State of Mississippi permitting an official to retain the services of a physician, even in the case of an autopsy, is section 647 of our present 1930 code, which is substantially the same as Article 147 of chapter 6 of the Mississippi Code of 1857. It was first provided in 1857, by this section that a coroner's jury might retain the services of a physician who should not be paid in excess of ten dollars. Now ten dollars may have been adequate in 1857, but it would hardly pay a physician for his services in treating the croup in 1938; and yet in this very day the sole provision for employment of medical services in this section which provides that a physician can be retained by a coroner's jury, but that his fee shall not be in excess of $10. The apathy of our people in regard to so rudimentary a necessity is astounding. To pardon a personal reference, the speaker at a recent session of the legislature, not that immediately past, prepared an amendment to the above statute, changing the requirement that the fee should not exceed $10 to read that a "reasonable" fee might be allowed. The history of this simple amendment was that it was never even reported out of committee.

We are today in Mississippi forced to fight organized crime and to face its highly efficient depredations with the flint lock muskets of a past century. In a past day when crime was largely sporadic, unorganized and amateur, untrained officers could and did successfully combat untrained desperados. Crime today, however, has resorted to all of the modern inventions of science, and fortunately science has likewise made tremendous strides in crime detection. However, as far as we in Mississippi are concerned, there might as well have been, in the majority of cases, no progress whatever made by science in the last 100 years insofar as crime detection is concerned. I am speaking of a problem now that is just as important to the innocent individual as it is to organized society in the event of a guilty culprit. Scientific crime investigation can and often does prevent the unjust prosecution of innocent parties as well as convict the guilty. To illustrate by a simple fact, scientific investigation has made it possible to ascertain, in the case of broken glass, from which side such glass has been shattered. This fact may at first seem to you as trivial, insignificant, and unimportant. Let me digress for a moment to

cite to you a very important part that this fact played in a well-known criminal case. In November of 1934 one John Hall Chase was charged with the murder of Inspector S. P. Cowley and Special Agent E. E. Hollis of the Federal Bureau of Investigation. Chase, together with Lester M. Gillis, engaged in a gun duel with Cowley and Hollis. The abandoned automobile of Chase was found to have five bullet holes close together through the right hand side of the wind shield. From investigation by technicians it was determined that the shots causing these holes were all fired from within the automobile. This testimony, therefore, indicated that the window was damaged in an earlier encounter with federal agents and clearly precluded the defense that the bullet holes were caused by the Federal agents, and thus precluded any possibility of framed defense. The importance of this case can be immediately seen.

In the innumerable instances where the identity of the criminal is in doubt, science has been able to reconstruct remarkably accurate pictures of the identity of an accused. Scientific analysis of finger nail parings, of strands of hair, and other apparently insignificant links of evidence have led to the solution of major crimes. Mississippi is entirely without the benefit of such facilities, save and except for the limited facilities of the Bureau of Investigation in some of our larger cities which are doing splendid work under handicaps of necessarily limited resources.

Further, the defense of insanity is increasing in all of our courts and has long been a resort of those accused of crime. It can be seen that the state is helpless in the prosecution for any crime where the defense is insanity, unless it can obtain the services of alienists and physicians to rebut the testimony presented by the defense. And concerning this situation, *there is no provision in Mississippi for the securing by the state of such testimony.* Unless the family of the deceased is financially able to procure such testimony, either the case must be dismissed or allowance attempted from governing authorities, which allowance is of doubtful validity, and which may subject such authority, acting in the utmost good faith, to the penalties of personal recovery against them. This is only one of the many instances of the necessity of expert witnesses in specialized fields. Of course, you are at once familiar with the necessity which so often arises in the securing of accountants, of handwriting experts, and of the other manifold phases of highly specialized learning, and for which there is no provision in Mississippi.

It is by reason of those matters and other similar instances daily arising, but too numerous to detail at length here, that I come

to you to urge your efforts in behalf of the establishment, within the confines of our own state, of a Department for Criminal Identification, Investigation and Statistics. And in further considering this matter let us realize that these problems are becoming more complex daily, that they are growing with our increase in population, and that they thrive upon antiquated machinery. While we need badly such a bureau as here proposed, now, still the establishment of such bureau will likewise save us many thousands of dollars in the future, tragedy, as well as financial toll from crime. In other words, let us apply in this instance preventive medicine, and not wait until after the horse is stolen before we lock the stable door. The fallacy of such economics has already cost us many thousands of dollars within the State of Mississippi. With all of these matters in mind, your speaker at the request of interested parties, about two years ago drafted a proposed bill for the State of Mississippi wherein a State Bureau of Criminal Identification, Investigation and Statistics, was proposed to be created. Your speaker claims no credit for this bill, as it was largely an adaptation from a model act proposed by the committee on Uniform Crime Records of the International Association of Chiefs of Police, and which model bills had been drafted by some of the best minds of our nation. The proposed act in Mississippi is, therefore, largely an adaptation to our local needs of this model bill and attempts to take full advantage of the facilities of our state, which are already in existence. It was immediately felt by parties interested in this department that it should be absolutely divorced from politics and that unless this were done, the proposed legislation would create more harm than good. Accordingly, it is proposed that all employees and investigators of the bureau shall be under regulations similar to civil service and to be prescribed by the superintendent of the bureau and commission governing the bureau. It is further provided that employees shall only be subject to discharge for cause and not by reason of political whim. Further, while a better plan for the appointment of the superintendent may well be found, the present bill in question provides that the board of control, which consists of the attorney-general, together with the seventeen district attorneys of the state and one sheriff and one police chief to be appointed by the governor, shall in turn select a superintendent, who must be acceptable and approved both by the governor of the state as well as the senate. The sponsors of this bill had no idea that the district attorneys would be above politics any more than any other officers, but it was felt that a board composed of all of these officers, with their varying political opinions and beliefs, would largely counteract each other and thus the selection of a

superintendent of the bureau might be kept out of politics more than if appointed by one particular person. However, it may well be that it would be better for the superintendent to be appointed directly by the governor, but this is a detail that can easily be later worked out.

The bill provides for all departments that either are now or will later be needed or required, including that of Chemical Analysis, Department of Ballistic Experts, Finger Printing Department, a complete medical staff, an auditing and accounting department, and such others as may be created by the board of control. It further provides for the report from the various counties of the state of vital criminal statistics, and provides for the voluntary taking of finger prints as well as finger print files from our various institutions for the insane as well as other state institutions. It provides further for central communication facilities and for the general organization and administration by the board of the department. Particularly does it provide that no officer or superintendent of the bureau shall be allowed to hold or be a candidate for any public office or engaged in campaigning for any candidate. It further provides that the facilities of the University of Mississippi as well as the Mississippi State College may be used by the Bureau or that such facilities as the chemical or medical departments of such universities may be called upon to act in lieu of separate departments by the Bureau.

It will perhaps be apparent that at the present time there will probably be no necessity for the creation of all of the departments provided for in the proposed bill. This contingency is therefore provided for by the provision that the board of control shall have the power to either create or not create such departments as are provided, and the legislature is given immediate control over this matter by reason of its power to restrict necessary appropriations. The bill is attempted to be drawn in such a manner that it is flexible in its provisions, subject to the discretion of legislative appropriations as well as administration by its board of control, but to be further so drawn that amendatory legislation will not be necessary as the necessities of the state increase the need for the additional facilities which the board may provide. In other words, the bill itself is attempted to be comprehensive, but likewise to be so drawn that all the facilities provided need only be created when necessary.

At the present time, I personally would feel that the board could successfully operate in a skeletonized form and that it could well take advantage of the splendid facilities at the University of

Mississippi as well as at Mississippi State College, and I should particularly at this time pay tribute to Dr. Hand of Mississippi State College for his assistance to law enforcement officials when the occasion arises. I have no doubt but that the facilities of the University of Mississippi are likewise as cordially extended to law enforcement officials, but it so happens that the speaker has not himself had occasion to seek such cooperation from this institution. Further, at the present time, in my judgment a department consisting of no more than ten employees could render excellent service to this state. Of course, more if possible, would even now be desirable. However, with even so restricted a number as ten there could be assigned to every two districts one investigator, and this investigator, working in cooperation with the local authorities, could render invaluable aid.

And here let us digress for a moment to emphasize upon your minds that the proposed legislation does not propose the creation of any state police, the wisdom of which may well be subject to dispute. And there is no idea to supersede legal authority, but merely to provide additional aid and benefit of scientific facilities and detailed and trained investigation to such local authorities who shall at all times maintain their proper rights and privileges. And it would be unjust as well as ungenerous if I did not here state to you that, generally over the state of Mississippi, with the limited facilities at hand, local authorities are performing splendid work, and, in fact, are doing remarkable jobs when their limited facilities are taken into consideration. Frankly and personally, I would be opposed to any central authority set up to supersede that of local counties and of the subdivisions, but I am greatly in favor of providing supplemental service to aid in the tireless vigilance of understaffed local authorities. To revert again to a brief discussion of one of our state and local problems, permit me to again illustrate by calling your attention to the critical danger of the traffic in marihuana cigarettes, which traffic concentrates its insidious influences upon the youth of the land. We have all heard much in the last few years of this traffic, but perhaps we have felt that it, too, was a foreign problem and not a local one. Let me assure you, however, that it is a very real and extensive problem within the borders of our own cities and in our state, and among our own people and with our own youth. You immediately then ask why something is not done about that, but I would ask you to consider the difficulty of local officers, all well-known to the dealers in this traffic, in being able to successfully secure sufficient evidence to warrant the institution of prosecution. In 1934, I beieve it

was, the Mississippi legislature passed a model act for the suppression of marihuana and other narcotics, an act which has no peer in this nation, but again a splendid piece of legislation has been placed upon our books without adequate machinery for its enforcement. The federal investigators are overworked in the handling of these various problems and it is a primary problem of state concern. The dealing with this problem would more than repay the state of Mississippi for the creation of the department proposed. Further, we have elected within the state of Mississippi to maintain our prohibition statutes. I do not propose to enter into any discussion as to whether this is wise or unwise, but I do say to you that the present situation in Mississippi in regard to the organized liquor traffic and its satellites of gangsterdom has become critical. Irresponsible so-called road houses are going up over night all over our state to such an extent that it is almost impossible of decent regulation. To cope with this situation alone the sheriffs of the respective counties would have to employ an impossible number of deputies, and remember this, that each and every deputy is not paid by either the state or county, but must be paid from the pocket of the sheriff employing such deputy. With these so-called road houses, placed outside the limits of municipalities, it will be immediately obvious to you that, regardless of how faithful any sheriff may be, it is practically impossible to cope with this situation. Therefore, will you permit me, finally, to say that this problem that I discuss with you, is not merely a problem for still another bureau for further political patronage. In fact, even with the obvious necessity therefor, I would hesitate to suggest the creation of this bureau if I were not convinced in my own mind that it would result in saving instead of loss. No one realizes more fully than the speaker that we cannot afford to do anything that will increase the expense of government, but I earnestly believe that the creation of this bureau will result in the saving of many thousands of dollars to our citizens instead of merely adding to their already great load of taxation. This bureau, in my judgment, could be operated successfully at this time with a lower appropriation than was recently made for our National Guard or State Militia for the enforcement of law in one or two counties, and the Bureau would benefit the entire state. The splendid Highway Patrol that has recently been created by the Legislature has the speaker's most hearty approval and deserves the commendation of all good citizens, but its importance cannot supersede the importance of the proposed Bureau which can be operated in my judgment at one-half the cost of the Patrol, which, of course, is

largely restricted to only one, though important, phase of law enforcement.

This proposed bill for the creation of a bureau of Identification and Investigation, has been twice introduced in the Mississippi legislature by Hon. Geo. M. Ethridge, Jr. of Lauderdale county, and he has rendered splendid work in this service. However, in the pressure of urgent legislation and other matters that have arisen for two consecutive legislative sessions, neither this bill nor any similar bill has ever been even reported out of committee. I have no pride of opinion in this particular bill. It is only my desire that some similar or adequate legislation be placed upon our statute books before it becomes too late. I am absolutely convinced, however, that unless our people shall realize the importance of such proposal, and shall be willing to ardently sponsor this cause of good government, then it will not be placed in Mississippi perhaps before it is too late, and until after tragedy after tragedy and continued financial toll has convinced us that "the horse has already been stolen". I urge you, therefore, that this organization shall lend its best efforts toward the adoption of this or similar legislation, and that you shall lend such efforts as shall be necessary to secure its enactment into statute. (Applause).

THE CHAIR: I want to thank you for this discussion. What is the will of the body? I would like to know whether we shall adopt this as one of our objectives for the coming year.

MR. LEONARD E. NELSON: I move that we recommend to the State Bar the establishment of a Bureau of Investigation and Identification.

MR. HAUBERG: I second the motion.

MR. CLAYTON: May I ask Mr. Nelson one question? Do you move the approval of the idea of the bill in question?

MR. NELSON: I personally do not know enough about the bill to recommend that at all but I do recommend approval of the idea.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no". The motion is carried.

The next topic we have is the Selection of the Judiciary, by Hon. James N. Ogden of Magnolia. (Applause).

MR. OGDEN: Mr. Chairman, members of the Junior Bar Section; in view of the limited length of time I am going to con-

fine my remarks very strictly to what I have outlined. Before I undertake to make any remarks, I might say that two other gentlemen were invited to discuss this question with me, Mr. Swango of Sardis, who is sick, and Mr. Bramlette of Woodville, who had no excuse and is here. When I have said what I have to say I am going to turn him over to you and let you do what you want with him.

In keeping with the usual program of the Junior Bar Section, and that is to initiate some new idea to pursue each year, it was decided that we would discuss at this meeting the question relative to the selection of the Judiciary, and, as I say, I was asked to say something about it as well as these other gentlemen.

How to select the judiciary is no new problem in Mississippi. At the annual meeting three years ago a resolution was introduced asking that the State Bar go on record as favoring a change from our elective to an appointive system. After a heated discussion and tie-vote, the motion was eventually lost at the 1936 annual meeting. In the interim between the 1935 and 1936 meetings the proposal was discussed *pro* and *con* in the pages of our Law Journal. Since 1936 nothing further has been done.

Generally speaking, there are two approved methods for selecting judges: one by election, and two, by appointment. Mississippi first appointed her judges, then she elected them, changed the appointive system, and finally reverted to her original method of election. It has been argued that this switching about on our part is conclusive proof of the merit of the elective method, since the last switch was in its favor. I think it proves no such thing. If it is proof of anything at all it is conclusive proof that the question has never been properly approached, analyzed, or solved. It is obvious from these past experiences that we have never been wholly satisfied with the method of selecting judges, whether it was elective or appointive.

My principal purpose, in reviving the question, is to see that it gets a second and more extended consideration. With deference to the gentlemen who have already gone into this proposition I submit that they have barely scratched the surface. It is imperative and absolutely necessary that we make some change in our method of selecting judges. I say that advisedly, with due respect to each and every judge in this state, and would have it understood now that everything that I have to say on this subject is confined to principles and not to personalities.

In the previous discussions those opposing a change simply beggar the question. They labor under the impression that a fearless approach would place them in an unfavorable light before the present bench. Such an attitude or position is not worthy of the high principles of this bar and is most unkind and unflattering to the members of our bench. If the judges in this state are half what has been claimed of them, they have nothing to fear from any change in the method of their selection. Certainly we should have nothing to fear from a frank and honest discussion of the manner in which they can best be chosen.

We may as well be honest with ourselves and admit that there are such things as political judges in Mississippi. By political judges I mean judges whose only qualification for the office is their ability to corral a majority of the votes; judges who decide a close question with an eye to the amount of political support involved; judges who will not decide a controverted case between strong parties during election year; judges who sit on the bench with one hand on the gavel and the other in the ballot box.

Several weeks ago Judge Davis said, while addressing a local bar in the delta, that the greatest fault of the lawyers lay in their laziness and procrastination. I am inclined to agree with him, but with the added thought that a lazy and incompetent bench is a big factor in causing a lazy and incompetent bar. There is no premium on diligence if it goes unrecognized and unwanted by the bench; but how can a judge attend to his judicial calendar while his political pot is constantly at a boil? But then, how else can he hold his position? If the judge is not constantly on the alert tending his flocks and nursing them along with favorable decisions and special privileges, they will fall easy prey to his opponent in the next primary.

These facts must be faced. We can no longer play the ostrich and hope for conditions to improve. What I have said is true and we all know that it is true. This can and will go on forever unless something is done by us.

The people look to the bar for advice and guidance in a matter such as this, and we betray their trust if we dodge the issue. We should come to the rescue of our judges rather than allow them and us to fritter away energies in useless criticism. I am convinced that it is our duty and solemn obligation to try to remedy this situation. I know that Rome was not built in a day and that we cannot hope to change everything to suit our wishes in the space

of tonight, or in a month, or even a year or several years, but we can make a beginning.

The entire situation should be gone into with care and deliberation. States such as New York, Ohio, Connecticut, California, Florida and Georgia have spent years in survey work and the construction of plans to meet this problem. We can well afford to do likewise.

Mississippi has a bench and bar second to none, and it should not be necessary that we apologize for one another. This is not an impossible problem and with our lawyers and judges working in concert it can and will be solved. (Applause).

Mr. Chairman, I wish to introduce Mr. Maxwell Bramlette of Woodville, who will also discuss this proposition.

MR. BRAMLETTE: Mr. Chairman, Mr. Ogden, ladies and gentlemen: The question of the method for the selection of the judiciary in Mississippi is an old one, and at the same time a new one. To go back to the inception of Mississippi as a state and to the assumption of the state of Mississippi's statehood in 1817, we find that the constitution of that year, being the first that Mississippi enjoyed, provided for an appointive judiciary, and at the same time provided for voluntary retirement of judges upon reaching the age of 65 years.

In 1832 in the wake of Jacksonian democracy which swept not only Mississippi but the entire nation and left in its wake the naming of our own capital city, the constitution of Mississippi of that year provided for sweeping changes and for the complete installation and use of the elective system for the selection of judges.

Came 1869 and the Black and Tan Convention, the child of that hybrid and non-descript assembly provided for the re-installation of the complete appointive system. The fact that the 1869 convention provided for the appointive system does not necessarily relegate the appointive system to discard, prejudiced though we may be against the Black and Tan Convention and all of its outgrowth.

Possibly as an antidote to the 1869 convention came the 1890 convention, which completely reversed the 1869 convention, re-established the '32 assembly, reincorporated and resetablished the complete elective system. As you will know, that is the system under which we are operating today.

Supplementing what my good friend, Mr. Ogden has said in regard to individuals holding judgeships and chancellorships, suffice it to say that we are aiming at no trees, that our axe to grind is simply in the forest; we are shooting at the forest as a whole, in short, at a system.

Briefly summarizing then what I have just said, Mississippi has tried both systems completely on two separate occasions over a goodly length of time. In the first instance, they tried the appointive, then the elective, then the appointive, and now the elective system. It is not necessary to point out that the judgment day will be here at the end of our lives, and that because we enjoy an elective system now that that will be good enough for all time to come. I think it has been sufficiently demonstrated, however, through the past one hundred and twenty-odd years, that neither the elective nor the appointive system in its entirety and alone is a good system or a sufficient system. Therefore, with your permission, Mr. Ogden, and Mr. Chairman, just for purpose of thought, I should like to try out a plan which I believe incorporates some of the most admirable features of the elective system and some of the most admirable features of the appointive system, and at the same time discards the objectionable features of both. It goes without saying that no plan that we arrive at can be perfect, but we can strive toward perfection.

In the first place, I think that lawyers know who are best fitted and best qualified to be judges. That assumption for the moment being taken as true, my idea calls for a committee selected from the Mississippi State Bar, either geographically or otherwise, upon whatever basis it might seem fit; that committee to certify to the governor of Mississippi three names, these nominees to be taken by the governor, and from these three, one name to be chosen, that name to be either confirmed or rejected by the senate. Upon the confirmation or rejection by the senate, let this named judge take office at the general election time. For purpose of illustration, let us say and for the ensuing four years, hold his office; then at the conclusion of his four years, at the next general election, let the people go to the polls and say on their ballot, we hereby object to Joe Smith or Jim Brown continuing in office as our chancellor, circut judge or supreme court judge. In such a case and under such a plan there would be no appointment at the coming election. Thus, I think, the subserviency to the electorate and to politics of the judiciary would be removed. That, I think, is the main fault with the judiciary today in Mississippi. We in a way have no judiciary; we have a superior system but we do not have the judi-

ciary that we had in years gone by. It has lost its savor to a great extent and it has lost the respect, not only of the bar but of the layman as well. Then let the voter, to save his part of the bargain, if it might be called such, be allowed to go to the polls since his is the case to be decided by the judge; let him go to the polls and say whether or not he wants John Doe to continue in office as judge. This is without an opponent, mind you. If the electorate rejects John Doe or Jim Smith, let this committee selected by the Mississippi State Bar meet immediately for the purpose of choosing three additional names, exclusive of the incumbent who has just been rejected. Let the committee certify those names to the governor, and so forth, as I have just related.

That plan, of course, is not perfect. I do believe, however, that it does combine some of the more attractive features of the elective system and some of the more attractive features of the appointive system. In other words, lawyers know those best qualified to be judges; they can certify to the governor three acceptable names, and it is my earnest wish, and I believe I am safe in saying that I have some sympathizers here, when I say that I would like to see the Junior Bar Section of the Mississippi State Bar go on record either as advocating a change in the method of selecting the judiciary or going on record as favoring the appointment of a committee to investigate the situation and make a thorough and complete report along with recommendations at the next annual meeting of this assembly. (Applause).

MR. MARCELLUS C. GREEN: Mr. Chairman, may I make a motion?

In keeping with these remarks made by these gentlemen, I think they made some worthwhile suggestions. I think it would be a good objective for the agenda of this Section during the coming year. I therefore move, Mr. Chairman, that the chairman appoint a committee of five, distributed all over the state, to study this problem thoroughly and report back next year their recommendations along the lines discussed here this evening.

MR. J. R. LeBRANO: Mr. Chairman, I believe everything has been going unanimously. I cannot sit here and be peaceful. I happen to live between Magnolia and Woodville—at Centerville, Mississippi. I go back to Bible times, and I remember something about the voice of Jacob and the hand of Esau, and as I listened to Mr. Bramlette and Mr. Ogden, I wondered if there was not something behind these remarks. I still think we live in a land that is supposed to be democratic, a land where I hope as long as I live the

judiciary will be always elective and not have a governor or any set of lawyers or anybody else to appoint the judiciary of Mississippi. I am willing to trust, as long as I live, the people of Mississippi, and I am willing to trust the people of Mississippi to select judges who shall referee, and I don't want them to have the power to comment on the evidence at the trial: I want them to be a referee and not a czar on the bench.

MR. OGDEN: Mr. Chairman and gentlemen of the Bar, I appreciate what my friend and neighbor has had to say about this. What he says is very well chosen, but I do not believe he paid much attention to what I said. I merely suggested that this was a question that would possibly arouse our intellectual curiosity at least, and we could get some enjoyment out of the exchange of ideas. I am not trying to down democracy or run out Mr. Roosevelt or any set of judges: I am just a little curious about this proposition.

MR. LeBRANO: Have you examined your mind to see whether it is your voice or some strange voice or some other voice speaking?

MR. OGDEN: I am not acquainted with any of your notions, in fact, I am not acquainted with you, but I am interested in suggestions in keeping with what I understand to be the program of this Bar, and that is that we would entertain ourselves from year to year with new thoughts and ideas. This thought and idea was suggested, and I seemed to have been drafted to present it along with these other gentlemen. They were merely suggestions. If you listened to what I had to say you noticed I did not say we ought to appoint. I refrained from saying we should elect. I say we ought to change again. I think we have gone long enough one way. That is what I suggested, and that is what Mr. Green proposes, if I understood his motion; it carries out the same idea.

THE CHAIR: As I understand, there is a motion before the house that a committee be appointed by the new incoming chairman to investigate and study the method of selection of the judiciary, to make a report back at the next annual meeting. Is there any further discussion?

MR. W. H. WATKINS, JR. I would like to make the suggestion, if it meets with Mr. Green's approval, that the recommendations of that committee be reported back to the chairman thirty days before this next year's meeting, and if they recommend any change, that those in favor be given opportunity to offer their argument in support of their contention at the next meeting.

MR. CLAYTON: May I suggest that they make their report before that, so that the report could be carried in the Law Journal, and both sides can be heard from fully at the next meeting.

MR. WATKINS: I think that is all right.

MR. GREEN: That is thoroughly agreeable.

THE CHAIR: You have heard the motion as amended. Is there any further discussion? All in favor say "aye"; opposed "no"; the motion is carried, and that committee will be appointed after the election of the new officers, who will make the committee assignments.

Mr. John C. Satterfield of Jackson has a proposal he wants to submit to the Bar.

MR. SATTERFIELD: Mr. Chairman, ladies and gentlemen; I move the adoption of the following resolution in order that it may be placed before you for consideration: (reading)

BE IT RESOLVED by the Junior Bar Section of the Mississippi State Bar that Section 1 of the by-laws creating the Junior Bar Section, as found in Volume IX of the Mississippi Law Journal at page 102, be amended to read as follows:

SECTION 1. The governing body of this Section shall be an executive committee composed of thirteen members. Two of these members shall be the chairman and vice-chairman who shall be elected by the Section as a whole, and two of these members shall be the last two immediate past chairmen of the Section. The remaining nine members shall be elected from the three supreme court districts, with three members from each district, these members to be selected in the same manner as the Bar Commissioners.

I might state that the only suggested change is that instead of having eleven members as it is now, this would provide for thirteen members, and the two additional members would be the immediate past chairmen of the Section. My thought is that in order to carry out a continuous program, one that might be carried forward from year to year, it would be helpful to have the benefit of the advice of the two preceding chairmen of the section. I do not think there would be any danger of perpetuity. Eleven out of thirteen would be elected every year. I do not think it would be helpful to have on the committee the chairman of the preceding year. I therefore move the adoption of this resolution, which makes that change only.

MR. OGDEN: Second the motion.

THE CHAIR: All in favor of the motion will make it known by saying "aye"; opposed "no"; the resolution is adopted.

I will hear nominations for chairman.

MR. HAUBERG: I would like to place before the members of the Junior Bar Section the name of a man for president or chairman, a member, a man who has meant much to the Junior Bar Section. He is a man who has worked on a number of committees. He helped to organize the Junior Bar Section, and he has done all the duties required of him in a splendid manner. I wish to nominate Mr. John C. Satterfield of Jackson. (Applause).

THE CHAIR: Is there any further nomination?

MR. GREEN: I would like to nominate for this office a man who has been connected with the Junior Bar work of the American Bar Association ever since it started in Mississippi, who helped to organize this section of the State Bar, whom most of you have known favorably in school and in work. I give you the name of James Ogden as chairman of this Section. (Applause).

THE CHAIR: Any further nominations?

MR. CLAYTON: I move that the nominations be closed.

VOICE: Second the motion.

THE CHAIR: All in favor of the nominations being closed will say "aye"; opposed "no", and the motion carried.

I appoint Mr. Walker Broach and Mr. Hugh Clayton as tellers to count the votes. I believe Mr. Ogden was nominated last; we will take him first. All in favor of Mr. Ogden as chairman will rise.

(Whereupon the vote was counted by the tellers).

All in favor of Mr. John C. Satterfield of Jackson as chairman of the Junior Bar Section will rise.

(Whereupon the vote was counted by the tellers).

(The tellers reported the result of the vote to the Chairman).

You have elected Mr. John C. Satterfield as chairman of the Section. (Applause).

MR. SATTERFIELD: It is now ten o'clock. My program says that the Blue Room opens at ten o'clock. I therefore say I thank you very much. I will serve to the best of my ability, and ask that you help me in the program next year. (Applause).

THE CHAIR: I will entertain nominations for first vice-chairman.

MR. ALLEN THOMPSON: I would like to nominate Mr. Charles A. Sisson of Clarksdale as vice-chairman. (Applause).

MR. TRAVIS: I nominate Mr. James N. Ogden.

MR. CLANT SEAY: I nominate Mr. J. K. Travis of Hattiesburg and move that the nominations be closed.

VOICE: Second the motion.

THE CHAIR: All in favor of the motion will say "aye"; opposed "no", and the nominations for vice-chairman are closed.

MR. SATTERFIELD: Mr. Chairman, as I am to be chairman next year, I would like to ask the privilege of not voting in this election.

THE CHAIR: Certainly.

I will appoint the same tellers, Messrs. Clayton and Broach.

As Mr. Travis was nominated last, we will vote on him first. All in favor of Mr. Travis as vice-chairman will stand and be counted.

(Whereupon the tellers counted the vote).

All in favor of Mr. Ogden as vice-chairman will stand and be counted.

(Whereupon the tellers counted the vote).

All in favor of Mr. Sisson as vice-chairman will stand and be counted.

(Whereupon the tellers counted the vote).

It is a run-off between Mr. Sisson and Mr. Travis.

All in favor of Mr. Sisson as vice-chairman will rise. (Whereupon the tellers counted the vote).

All in favor of Mr. Travis will stand. (Whereupon the tellers counted the vote).

You have elected Mr. Charles A. Sisson as vice-chairman of the Junior Bar Section for the ensuing year.

The next matter in order will be the election of the Junior Bar members to the executive committee. The three divisions will hold their meetings at this time.

(Whereupon the members separated into their respective sections, northern, central and southern.)

Executive members from the Northern District elected were: Guy Mitchell, Jr., Tupelo; John Eade, University; Frank E. Everett, Jr., Greenwood.

Central District: Ed Brunini, Vicksburg; L. O. Smith, Jackson; Robert Hauberg, Jackson.

Southern District: J. K. Travis, Hattiesburg; Karl Weil, Port Gibson; J. N. Ogden, Magnolia.

I will now turn the Section meeting over to the new Chairman, who will entertain a motion that we adjourn.

MR. JOHN C. SATTERFIELD (in the chair): Gentlemen, I will entertain a motion to adjourn.

MR. OGDEN: I move that we adjourn.

(Whereupon the meeting adjourned at 10:15 P. M.)

REPORT OF ACCOUNTS AND FINANCE
MISSISSIPPI STATE BAR

Report upon audit of accounts and financial records for the year ended May 30, 1938, including statement of receipts and disbursements with supporting schedules

DICK D. QUIN
CERTIFIED PUBLIC ACCOUNTANT
Member American Institute of Accountants
JACKSON, MISSISSIPPI

June 2, 1938

Board of Commissioners,
Mississippi State Bar,
Jackson, Mississippi.

Gentlemen:

In accordance with your instructions, I have audited the accounts and financial records of the Mississippi State Bar as maintained in the office of the Secretary-Treasurer for the year ended May 30, 1938. The scope of this audit embraced the verification of all recorded receipts and disbursements during the year, and the verification of the unexpended balance on hand at May 30, 1938.

The results of the audit are presented in this report, which includes: (1) text of comments and explanatory detail; (2) statement of receipts and disbursements for the year ended May 30, 1938; (3) schedules supplementing the foregoing statement.

COMMENTS RESPECTING RECEIPTS AND DISBURSEMENTS

Exhibit A presents statement of receipts and disbursements for the year ended May 30, 1938.

A summary of the receipts and disbursements for the fiscal year 1937-38 and a comparison with a summary of receipts and disbursements for the fiscal year 1936-37 are presented in the following table:

	1937-38	1936-37	Increase Decrease-
BALANCE ON HAND, BEGINNING OF YEAR	$2,470.81	$2,841.28	$ 370.47-
RECEIPTS:			
Net dues collected	5,550.00	5,405.00	145.00
Net collections on returned checks	15.00	5.00	10.00
	$5,565.00	$5,410.00	$ 155.00
BALANCE FORWARD	$8,035.81	$8,251.28	$ 215.47-
DISBURSEMENTS:			
Secretary's salary	1,800.00	1,500.00	300.00
Office expense	835.45	871.10	35.65-
Annual convention expense	365.69	449.51	83.82-
Commissioners' expenses	350.21	1,039.68	689.47-
Mississippi Law Journal	1,244.56	1,500.00	255.44-
Junior Bar Section expenses	58.50	———	58.50
Committee expenses	139.16	301.54	162.38-
Miscellaneous disbursements	100.32	118.64	18.32-
	$4,893.89	$5,780.47	$ 886.58-
BALANCE ON HAND, END OF YEAR	$3,141.92	$2,470.81	$ 671.11

An analysis of net dues collected during the fiscal year ended May 30, 1938 is presented in schedule A-1. This schedule shows the net amount collected for each fiscal year. All receipts issued by your Secretary-Treasurer were verified by tracing into the depository.

All cancelled checks covering disbursements were carefully examined and were found to be properly supported by vouchers for each expenditure. The balance of $3,141.92 remaining on hand at May 30, 1938 was verified by direct communication with your depository.

A list of all delinquent members at May 30, 1938 is presented in schedule A-2. Returned checks held for redeposit, for which receipts have been issued, are reflected in schedule A-3. While members whose checks have been returned unpaid are delinquent, and are so shown in schedule A-2, it was deemed advisable to include a list of the members issuing these returned checks as a part of this report. Returned checks of five former members of the Bar were written off as these individuals are no longer in practice.

A review of the membership roll of the Mississippi State Bar for the current year disclosed the following information:

Active members paying dues	1,051
Delinquent members	142
Exempt members	53
New members, exempt for one year	114
Members not in active practice	197
Total members on roll	1,557

Entries have been made in the journal and were posted under date of May 30, 1938 to bring the financial records into conformity with the statement of receipts and disbursements forming a part of this report.

Yours very truly,

DICK A QUIN,

Certified Public Accountant

MISSISSIPPI STATE BAR

List of Statements Contained in Report on Audit of Accounts and Financial Records, Year Ended May 30, 1938

Exhibit A—Statement of Receipts and Disbursements, Year Ended May 30, 1938.

Schedule A-1—Analysis of Net Dues Collected, Year Ended May 30, 1938.

Schedule A-2—Schedule of Delinquent Members at May 30, 1938.

Schedule A-3—Schedule of Returned Checks Held for Redeposit at May 30, 1938.

Exhibit A

MISSISSIPPI STATE BAR

Statement of Receipts and Disbursements, Year Ended May 30, 1938

BALANCE ON HAND, MAY 31, 1937			$2,470.81
RECEIPTS:			
Net dues collected—schedule A-1		$5,550.00	
Net collections on returned checks		15.00	
			$5,565.00
			$8,035.81
DISBURSEMENTS:			
Secretary's salary		$1,800.00	
Office expense:			
Auditing	$ 75.00		
Bond premium	15.00		
Dues and subscriptions	6.60		
Exchange	46.68		
Extra clerical help	40.00		
Postage	288.30		
Stationery, printing, and office supplies	217.72		
Telephone and telegraph	146.15		
		835.45	
Annual convention expense		365.69	
Commissioners' expense		350.21	
Mississippi Law Journal		1,244.56	
Junior Bar Section expenses		58.50	
Committee expenses:			
Complaint committee	42.70		
Committee on election of commissioners	17.44		
Committee on pleading, practice and procedure reform	79.02		
		139.16	
Miscellaneous disbursements:			
Secretary expense to A. B. A. convention	74.96		
District Bar Association organization expense	15.16		
Floral tribute to Hon. W. J. Miller	10.20		
		100.32	
			4,893.89
BALANCE ON HAND, MAY 30, 1938			$3,141.92

Schedule A-1

MISSISSIPPI STATE BAR

Analysis of Net Dues Collected, Year Ended May 30, 1938

GROSS RECEIPTS:

	No. of Members	1933-34	1934-35	1935-36	1936-37	1937-38	1938-39	Total
1933-34 dues No. 1139	1	5.00						5.00
1934-35 dues Nos. 1102-1105 (1 yd.)	3		15.00					15.00
1935-36 dues Nos. 1078-1088 (2 yd.)	9			45.00				45.00
1936-37 dues Nos. 1051-1086 (3 yd.)	33				165.00			165.00
1937-38 dues Nos. 17-1057 (3 yd.)	1038					5,190.00		5,190.00
1938-39 dues Nos. 1-26	26						130.00	130.00
	1110	$ 5.00	$15.00	$45.00	$165.00	$5,190.00	$130.00	$5.550.00

NOTE: The voided receipts were as follows:
1934-35—No. 1103.
1935-36—No. 1080, No. 1088.
1936-37—No. 1065, No. 1066, No. 1067.
1937-38—No. 961, No. 967, No. 968.

Schedule A-2

MISSISSIPPI STATE BAR

Schedule of Delinquent Members at May 30, 1938

Name	Address	No. Yrs. Delq.	Amount
Amis, A. B., Jr.	Newton	2	$ 10.00
Arrington, James D.	Collins	2	10.00
Austin, B. G.	Jackson	2	10.00
Austin, H. L.	Jackson	1	5.00
*Barlow, E. C.	Brookhaven	1	5.00
Bates, Samuel Lyle	Meridian	1	5.00
Bayless, H. L., Jr.	Bay Springs	2	10.00
Bertrand, Ruth L.	Hattiesburg	4	20.00
Boydstrum, R. W.	Louisville	2	10.00
*Boyett, W. G.	Jackson	4	20.00
*Bridges, L. C.	Purvis	3	15.00
Broadway, L. J.	Meridian	6	30.00
Brown, D. W.	Fulton	2	10.00
Brown, M. D.	DeKalb	2	10.00
Buchanan, Frank J.	Amory	3	15.00
Buchanan, Harry	Hattiesburg	3	15.00
Buckley, J. Emmett	Enterprise	2	10.00
Buckley, John L.	Enterprise	3	15.00
Bullard, William D.	Pascagoula	6	30.00
Bullard, R. L.	Hattiesburg	6	30.00
Burdette, W. F.	Richton	2	10.00

*The members so indicated have given checks which have been returned unpaid covering one or more years' dues.

Schedule A-2—Continued

Schedule of Delinquent Members at May 30, 1938—Continued

Name	Address	No. Yrs. Delq.	Amount
Burnaman, C. Frederic	Jackson	1	5.00
Byrd, J. M.	Leakesville	6	30.00
Byrnes, C. F.	Natchez	3	15.00
*Campbell, J. Edwin	Laurel	2	10.00
Carter, B. F.	Laurel	4	20.00
Churchwell, W. C.	Leakesville	6	30.00
Collins, Jeff	Laurel	6	30.00
Conn, W. D., Jr.	Jackson	1	5.00
Conner, Dudley W.	Hattiesburg	1	5.00
Cooley, D. B.	Laurel	1	5.00
Cooper, R. D.	Meridian	2	10.00
*Cooper, S. B.	Philadelphia	6	30.00
Crisler, Bert	Jackson	3	15.00
Dale, Sebe	Columbia	1	5.00
Dale, T. Price	Hattiesburg	2	10.00
Davis, D. P.	DeKalb	4	20.00
Davis, Edwin D.	Fayette	1	5.00
*Davis, John E.	McComb	5	25.00
Davis, T. B.	Columbia	1	5.00
DeDeaux, O. J.	Gulfport	4	20.00
Downs, A. B.	Leland	1	5.00
Duncan, B. A.	Meridian	1	5.00
Dunning, F. S.	Canton	1	5.00
Easterling, Albert E.	Laurel	4	20.00
Ellis, W. B.	Iuka	6	30.00
Elmer, F. W., Jr.	Biloxi	5	25.00
Estes, Wm. M.	Enterprise	6	30.00
*Eudy, J. E.	Ackerman	3	15.00
Evans, C. C.	Laurel	5	25.00
*Evans, H. H.	Gulfport	6	30.00
Everett, W. M.	Decatur	3	15.00
Garth, J. Hunter	Hazlehurst	4	20.00
Gautier, H. W.	Pascagoula	3	15.00
Goss, B. J.	Columbia	1	5.00
Goss, Roy J.	Columbia	2	10.00
Graham, D. M., Jr.	Gulfport	5	25.00
Green, Jess D.	Tupelo	4	20.00
Hamilton, Geo. S.	Jackson	2	10.00
Hammond, Kelly J.	Columbia	1	5.00
Hartley, C. D.	Columbus	2	10.00
Harwell, J. M.	Meridian	2	10.00
Haydon, Chas. R.	Gulfport	2	10.00
Hearst, A. A.	Hattiesburg	2	10.00
Hinds, Robert L.	Tupelo	2	10.00
Hoffman, C. L.	Gulfport	1	5.00
Holmes, D. B., Jr.	Meridian	4	20.00
Holmes, D. W.	Hattiesburg	6	30.00
*Hunter, J. Q., Jr.	Union	6	30.00
Hutto, A. C.	Gulfport	3	15.00
Hutto, W. N.	Waynesboro	4	20.00
Johnson, Paul	Hattiesburg	1	5.00
Katz, Andrew D.	Hattiesburg	1	5.00

*The members so indicated have given checks which have been returned unpaid covering one or more years' dues.

Schedule A-2—Continued

Schedule of Delinquent Members at May 30, 1938—Continued

Name	Address	No. Yrs. Delq.	Amount
Kelly, A. F.	Hattiesburg	1	5.00
Koonce, Pat	Hattiesburg	5	25.00
Lacy, Eugene P.	Booneville	4	20.00
Landrum, Scott	Kosciusko	4	20.00
Lewis, E. M.	Hazlehurst	2	10.00
Lewis, Ida Lou	Hazlehurst	2	10.00
Lincoln, B. A.	Columbus	2	10.00
Lindsay, English	Gulfport	1	5.00
Long, Sam P.	Tupelo	6	30.00
Majure, R. S.	Newton	2	10.00
Maples, L. W.	Gulfport	4	20.00
McLeod, D. A.	Mount Olive	1	5.00
Melvin, Leonard B.	Laurel	5	25.00
Mitchell, B. T.	Tupelo	3	15.00
Montgomery, Goode	Laurel	6	30.00
Montgomery, Holt	Laurel	6	30.00
Moore, Wm. T.	Gulfport	1	5.00
Moreland, G. C.	Corinth	2	10.00
*Moss, Jos. H.	Raleigh	6	30.00
*Munn, W. I., Jr.	Newton	3	15.00
Nelson, A. M.	Jackson	4	20.00
O'Neal, J. H.	Clarksdale	1	5.00
O'Neil, A. M.	Drew	1	5.00
Parker, S. R.	Taylorsville	1	5.00
Pierce, Whitfield	Jackson	3	15.00
Phillips, Casper C.	Meridian	4	20.00
Pittman, Claude F.	Hattiesburg	1	5.00
Pittman, Homer	Hattiesburg	2	10.00
Porter, M. B.	Moselle	1	5.00
Powell, Sid	Canton	1	5.00
Price, J. H.	Indianola	2	10.00
Redmond, S. D.	Jackson	4	20.00
Rhine, H. M.	Iuka	6	30.00
Russel, Lee M.	Jackson	1	5.00
Salter, S. G.	Hazlehurst	1	5.00
Saul, L. K.	Ellisville	1	5.00
*Savage, J. S.	Ackerman	1	5.00
Scott, T. W.	Eupora	1	5.00
Seale, J. Eugene, Jr.	Meridian	2	10.00
Shanks, J. W.	Sumrall	5	25.00
Simmons, J. U.	Gulfport	5	25.00
Simms, W. L.	Columbus	6	30.00
Stennett, J. C.	Jackson	2	10.00
Stone, H. R., Jr.	Decatur	3	15.00
Strange, E. T.	Meridian	2	10.00
Stribling, Wm. P.	Columbus	4	20.00
*Stringer, H. C.	Jackson	2	10.00
Swalm, Sherman W.	Brookhaven	1	5.00
Turner, S. E.	Carrollton	1	5.00
Valentine, A. F.	Rosedale	1	5.00
Walker, Ray	Laurel	3	15.00
Wall, E. R.	Newton	3	15.00

*The members so indicated have given checks which have been returned unpaid covering one or more years' dues.

Schedule A-2—Continued

Schedule of Delinquent Members at May 30, 1938—Continued

Name	Address	No. Yrs. Delq.	Amount
Ward, E. C.	Biloxi	1	5.00
Wells, Will S.	Jackson	4	20.00
Whetstone, J. C.	Biloxi	2	10.00
White, J. P.	Canton	1	5.00
Wiggington, R. D.	Gulfport	5	25.00
Williams, Frank M.	Moselle	1	5.00
Williamson, T. L.	Purvis	4	20.00
Wills, T. J.	Hattiesburg	1	5.00
Wilson, Chas. D.	Hazlehurst	4	20.00
Windham, E. K.	Booneville	4	20.00
Woodruff, Lee T.	Batesville	1	5.00
Yewell, T. O.	Carrollton	2	10.00
Young, H. D.	New Augusta	5	25.00
Total			$2,020.00

Schedule A-3

MISSISSIPPI STATE BAR

Schedule of Returned Checks Held for Redeposit at May 30, 1938

Judicial District	Name	Address	Years Covered	Amount
8	Cooper, S. B.	Philadelphia	1—1932-33	$ 5.00
13	Moss, Jos. H.	Raleigh	1—1932-33	5.00
8	Hunter, John Q.	Union	1—1932-33	5.00
14	Davis, John E.	McComb	1—1933-34	5.00
7	Boyett, W. G.	Jackson	1—1934-35	5.00
2	Evans, H. H.	Gulfport	5—1932-33, 1933-34, 1934-35, 1935-36 and 1936-37	25.00
8	Munn, W. I.	Newton	1—1935-36	5.00
5	Eudy, J. E.	Eupora	1—1935-36	5.00
15	Bridges, L. C.	Purvis	2—1935-36 and 1936-37	10.00
7	Stringer, H. C.	Jackson	1—1936-37	5.00
12	Campbell, J. Edw.	Laurel	1—1937-38	5.00
14	Barlow, E. C.	Brookhaven	1—1935-36	5.00
15	Savage, J. S.	Ackerman	1—1937-38	5.00
				$ 90.00

1938 DIRECTORY
MISSISSIPPI STATE BAR

Abernethy, H. B., Houston
Abernethy, Thos. G., Okolona
Adam, C. B., Pass Christian
Adam, E. J., Jr., Pass Christian
Adams, B. C., Hattiesburg
Adams, Geo. Lawrence, Natchez
Adams, J. Hermon, Utica
Adams, J. J., Jr., Clarksdale
Adams, J. L., Quitman
Adams, L. M., Jackson
Adams, M. T., Tupelo
Adams, W. C., Corinth
Alcorn, W. A., Jr., Clarksdale
Alderman, J. E., Leakesville
Aldridge, John Edw., Winona
Alexander, H. Chalmers, Jackson
Alexander, James A., Jackson
Alexander, Julian P., Jackson
Alexander, W. B., Jr., Cleveland
Alford, S. M., Brookhaven
Alford, J. M., Tylertown
Allen, B. B., Indianola
Allen, Emmette P., Silver Creek
Allen, John F., Kosciusko
Allen, Joe Frank, Kosciusko
Allen, John Percy, Kosciusko
Allen, N. R., Shaw
Allen, Paul, Belmont
Allen, Percy W., Indianola
Ames, Chas. F., New York City
Amis, A. B., Sr., Meridian
Anderson, D. M., Newton
Anderson, Fred A., Gloster
Anderson, John R., Tupelo
Anderson, R. B., Port Gibson
Anderson, S. V., Greenville
Anderson, W. D., Jackson
Anderson, W. H., Ripley
Andrews, Landon C., Oxford
Antoon, Edward J., Greenwood
Armstrong, John T., Hazlehurst
Arnold, Roy, Jackson
Arrington, Jo Drake, Gulfport
Arrington, John H., Monticello
Arrington, R. O., Hazlehurst
Aultman, Bruce C., Vicksburg
Avery, Ralph B., Jackson
Ayres, S. N., Ripley

Babendreer, Eleanore, Gulfport
Backstrom, J. W., Leakesville
Backstrom, Oscar, Gulfport
Bacon, Wm. Arthur, Durant
Baddly, Hugh M., Water Valley
Baker, B. H., Hattiesburg
Bailey, C. B., Marion
Bailey, T. L., Meridian
Banks, Geo. H., Newton
Bankston, W. L., Tunica
Barbee, J. W., Hernando
Barbour, Jeptha, Yazoo City
Barbour, J. S., Jackson
Barbour, J. F., Yazoo City
Barbour, Wm. Henry, Yazoo City
Barksdale, Henry, Jackson
Barnett, Arden, Jackson
Barnett, O. H., Jr., Carthage
Barnett, Ross R., Jackson
Barnett, Tom J., Carthage
Barrett, Pat M., Lexington
Bass, Catherine, Hazlehurst
Bates, Jean M., Starkville
Batson, W. C., Wiggins
Bauer, T. L., Natchez
Bean, George, Okolona
Beard, W. A., Jr., Laurel
Belk, Fred M., Holly Springs
Belk, Wm. D., Holly Springs
Bell, A. H., Greenwood
Bell, B. F., Starkville
Bell, James W., Jr., Tunica
Bell, Percy, Greenville
Bennett, R. E., Meadville
Benson, Isaac D., Vicksburg
Berger, Frederic C., Port Gibson
Berman, Joseph E., Lexington
Berry, Loren B., Tupelo
Berry, O. L., Mendenhall
Berry, S. B., Hattiesburg
Bickerstaff, R. O., Gulfport
Bilbo, Theo. G., Jackson
Bishop, R. J., Hattiesburg
Black, E. C., Marks
Black, Maurice R., Flora
Blackburn, D., Conehatta
Blair, W. A., Tupelo
Blissard, Tom L., Houston
Bloomfield, Horace, Gulfport
Blount, James A., Charleston
Bogen, Edw. J., Greenville
Boggan, J. W. P., Tupelo
Boggs, Wm. R., Jackson
Bolton, C. R., Tupelo
Bonelli, Albert M., Vicksburg
Boone, E. E., Marks
Booth, Richard B., Aberdeen
Bourdeaux, R. M., Meridian
Bowdre, P. H., Hernando

Boykin, Mack L., Vaiden
Boyles, J. B., Batesville
Bozeman, Albert S., Jr., Meridian
Bozeman, A. S., Meridian
Brackstone, Fernand D., Corinth
Braden, William, Jr., Natchez
Bradford, J. W., Itta Bena
Bradshaw, F. W., Jackson
Brady, T., Jr., Brookhaven
Brady, Thos., Pickens
Brady, Tullius, Brookhaven
Bramlette, David Clay, Woodville
Bramlette, Maxwell, Woodville
Brandon, G. H., Natchez
Brandon, Gerard, Natchez
Brandon, J. M., Natchez
Brannon, Mary Sue, Aberdeen
Brantley, Z. A., Louisville
Bratton, C. A., Oxford
Bratton, Thos. S., Jackson
Breland, J. J., Sumner
Brett, M. D., Jackson
Brewer, Dan C., Clarksdale
Brewer, Earl, Jackson
Brewer, Ed C., Clarksdale
Brewer, Norman C., Greenwood
Bridgforth, Allen, Yazoo City
Britton, E. H., Macon
Broach, Walker, Jr., Meridian
Broadus, A. Q., Purvis
Brocato, V. J., Clarksdale
Brock, Edmond R., West
Brooks, J. M., Clarksdale
Brooks, Rodney, Clarksdale
Brown, A. L., Rolling Fork
Brown, Berry D., Greenwood
Brown, G. N., Bay Springs
Brown, J. H., Fulton
Brown, James T., Jackson
Brown, Jos. E., Natchez
Brown, L. W., Starkville
Brownstein, Fred X., Rolling Fork
Bruce, Arthar, Greenwood
Brunini, Alexander J., Vicksburg
Brunini, Edmund L., Vicksburg
Brunini, J. B., Vicksburg
Bryan, Harry M., Jackson
Bryant, Rae, Gulfport
Buchanan, James R., Laurel
Bullock, H. H., Brandon
Buntin, R. R., Gulfport
Burgin, D. A., Columbus
Burkett, John G., Jackson
Burns, James A., Meridian (col.)
Burns, Robert, Jr., Jackson
Busby, A. G., Waynesboro
Busby, Arthur G., Waynesboro
Busby, Jeff, Houston
Bush, M. M., Hattiesburg
Butler, George H., Jackson
Butler, James W., Jackson
Butler, John Sharp, Quitman
Butts, Dr. A. B., University
Byars, Wilton Vance, Bruce
Byrd, A. M., Meridian
Byrd, J. L., Jackson
Byrd, T. H., Lucedale
Byrd, W. A., Newton

Cain, S. Robert, Canton
Caldwell, J. H., Charleston
Caldwell, J. H., Jr., Charleston
Caldwell, Thomas, Cleveland
Calhoun, Edwin L., Mount Olive
Calhoun, Robert L., Mount Olive
Callender, Bernard, Columbia
Cameron, Ben F., Meridian
Cameron, Chas. B., Meridian
Campbell, A. C., Tutwiler
Campbell, Chas. S., Jackson
Campbell, Geo. H., Yazoo City
Campbell, T. H., Yazoo City
Campbell, T. H., Jr., Yazoo City
Campbell, Virginia Ruth, Yazoo City
Canizaro, Jack P., Vicksburg
Canizaro, P. C., Vicksburg
Cannon, L. C., Tunica
Cannon, R. L., Sumner
Capers, W. W., Jackson
Caradine, J. E., West Point
Carballo, J. L., Kosciusko
Carlisle, Jack B., Jr., Ackerman
Carlton, L. K., New Albany
Carmichael, Benj. B., Greenville
Carney, K. A., Clarksdale
Carothers, A. M., Grenada
Carr, J. M., Newton
Carr, J. V., Jackson
Carter, H. T., Louisville
Case, A. B., Waynesboro
Case, Hal F., Quitman
Casey, Offa L., Lands Div., Dept. of Justice, Washington, D. C.
Cassedy, J. W., Brookhaven
Cassidy, J. J., McComb
Cassidy, Wm. P., Brookhaven
Catchings, O. W., Woodville
Catoe, Earl V., Jr., Greenwood
Causey, Hugh F., Cleveland
Cauthen, Nelson H., Canton
Chadwick, Carl, Jackson
Chambers, Paul, Jackson
Chaney, A. A., Vicksburg
Chastine, Doris, Jackson
Chatham, Gerald W., Hernando
Cheney, Reynold S., Jackson
Clark, Chas. E., Ocean Springs
Clark, E. S., Hollandale

Clark, Frank, Waynesboro
Clark, J. O., Iuka
Clark, Lester, Hattiesburg
Clark, T. A., Iuka
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Coleman, A. Jerry, Vaiden
Coleman, J. M., Aberdeen
Coleman, James P., Ackerman
Coleman, Walter D., Natchez
Collins, F. B., Laurel
Collins, Robert W., Jackson
Collins, Ross A., Meridian
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Colson, J. G., Greenwood
Conger, J. W., Winona
Conn, W. D., Corinth
Conner, Claude E., Columbia
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Conner, M. S., Jackson
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Cook, W. H., Jr., Jackson
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Cooper, E. B., Shelby
Cooper, Forrest G., Indianola
Cooper, J. E., Purvis
Cooper, Owen, Jackson
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Corban, R. L., Fayette
Corban, R. L., Jr., Fayette
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Cousins, George B., Jr., Biloxi
Covington, A W., Quitman
Covington, J. A., Jr., Meridian
Cowan, R. C., Gulfport
Cowart, C. F., Meadville
Cox, Allen, Baldwyn
Cox, W. A., Marks
Cox, W. H., Baldwyn
Cox, Wm. H., Jackson
Craggs, C. J., Cleveland
Crawford, Marvin, New Albany
Crawley, David E., Kosciusko
Crawley, James T., Jr., Kosciusko
Creekmore, H. H., Jackson
Creekmore, Wade H., Jackson
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Crisler, John W., Clarksdale
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Cunningham, J. E., Booneville
Cunningham, James A., Booneville
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Currie, Dan T., Hattiesburg
Currie, E. J., Jr., Hattiesburg
Currie, George W., Hattiesburg
Currie, Homer, Raleigh
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Currie, Neil T., Hattiesburg
Curtis, Chester Harris, Clarksdale
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Dabney, J. B., Vicksburg
Dabney, L. B., Vicksburg
Dabney, Moncure, Vicksburg
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Darden, Tom Leslie, New Albany
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Davis, E. W., Port Gibson
Davis, Howard Q., Indianola
Davis, James E., Hattiesburg
Davis, James L., Jr., Louisville
Davis, Jefferson, Indianola
Davis, Paul Duncan, Jackson
Davis, S. F., Indianola
Davis, T. W., Jr., Purvis
Davis, T. W., Purvis
Davis, Walter Dell, Winona
Davis, W. S., Waynesboro
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Day, J. O., Tutwiler
Day, R. H., Decatur
Dean, Hermon, Canton
Dean, J. F., Senatobia
Deavours, Jack, Laurel
Denman, R. D., Greenwood
Denny, W. M., Jackson
Dent, R. L., Vicksburg
Dent, E. L., Collins
Dent, J. R., Gulfport
Dent, W. W., Collins
Denton, C. L., Meridian
Denton, P. L., Marks
Diamond, Harry, Greenwood

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Doty, Bennett J., Biloxi
Doty, Lemuel H., Biloxi
Doty, Walter S. P., Grenada
Dovith, Melvin, Belzoni
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Doxey, Wall, Holly Springs
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Dunn, Allee, Jackson
Dunn, Edwin A., Meridian
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Eaton, B. E., Jr., Gulfport
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Fant, Lester G., Holly Springs
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Jones, H. F., Belzoni
Jones, L. Barrett, Jackson
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Lamb, Knox, Greenwood
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Landrum, Ralph, Kosciusko
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Latham, W. F., Quitman
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Loving, J. W., Columbus
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Lowrey, J. T., Gloster
Lowrey, P. H., Marks
Lucas, W. B., Macon
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Magee, G. W., Monticello
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Maynard, Wm. H., Clarksdale
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McCraine, C. H., Houston
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McDonald, Edward Leo, Quitman
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McFarland, Joe A., Jr., Bay Springs
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McGehee, W. H., Bude
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McIntosh, Tarver, Collins
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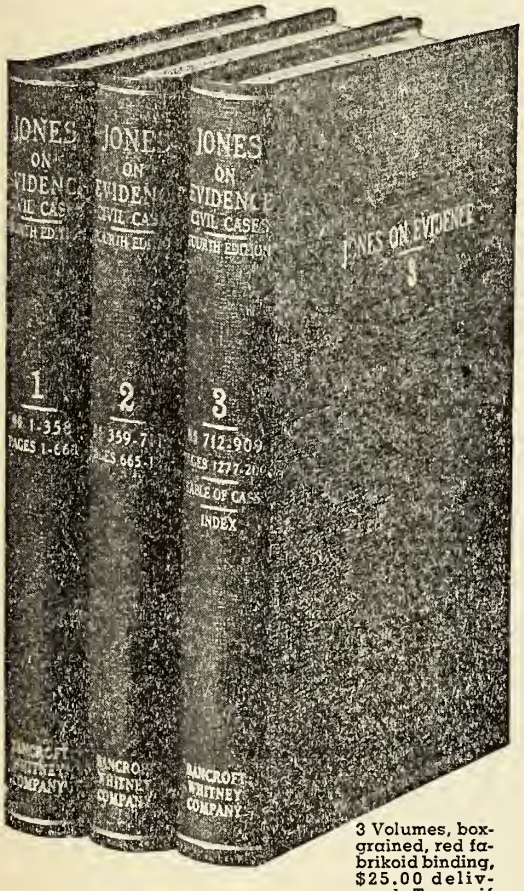

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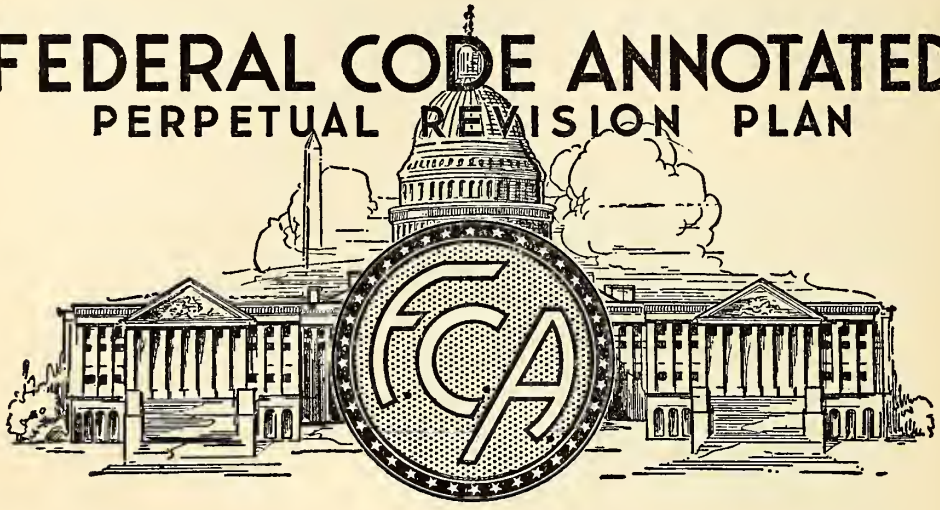

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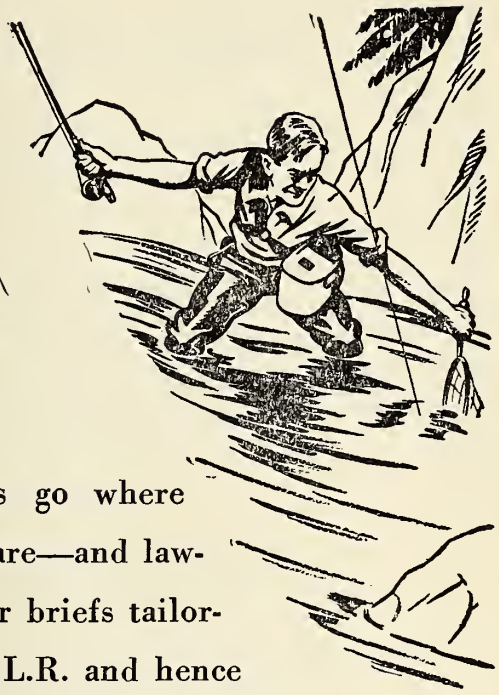

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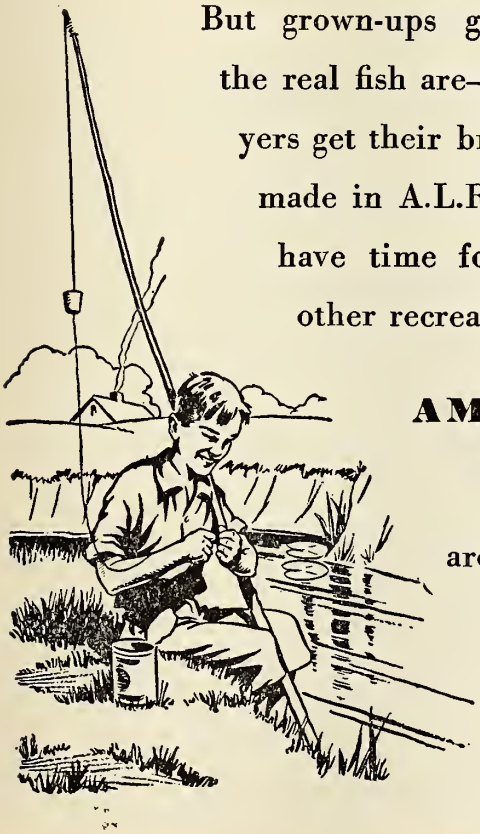

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